

THE
UNREPEALED GENERAL ACTS
OF
THE GOVERNOR GENERAL IN COUNCIL:
WITH CHRONOLOGICAL TABLE OF ALL
UNREPEALED ACTS, NOTES AND AN
INDEX.

From 1887 to 1897, both inclusive.

VOL. III.

FIFTH EDITION



CALCUTTA GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1929

Price Rs 2 4 or 4s

Government of India Publications are obtainable from the Government of
 India Central Publication Branch, 3, Government Place, West,
 [Calcutta, and from the following Agents :—]

EUROPE.

OFFICE OF THE HIGH COMMISSIONER FOR INDIA, 42, GROSVENOR GARDENS, LONDON, S W 1
 And at all Bookellers.

INDIA AND CEYLON.

Provincial Book Depôts :

Thacker Spink & Co, Calcutta and Simla
 W. Newman & Co, Ltd, Calcutta
 R. Cambray & Co, Calcutta
 S. K. Lahiri & Co, Calcutta

The Standard Bookstall, Karachi, Quetta, Delhi,
 Murree and Rawalpindi
 The Karachi Book Depôt, Elphinstone Street, Camp,
 Karachi
 The English Bookstall, Karachi
 The Standard Bookstall, Quetta
 U. P. Malhotra & Co, Quetta
 J. Ray & Sons, 43, K. & L. Edwardes Road,
 Rawalpindi, Murree and Lahore
 The Standard Book Depôt, Lahore, Nainital,
 Mussoorie, Dalhousie, Ambai, Cantonment and
 Delhi
 N. N. Mathur, Super, Nasir Khan Hind Press,
 Allahabad.

Bright & Co, Trivandrum
 The Booklover's Resort, Tati
 India

R. M. Gopalakrishna Kober, P.
 Central Book Depôt, Madar
 Vilapur & Co, Vizagapatam
 Thacker & Co, Ltd, Bombay
 D. B. Taraporevala, Sons &
 Bunder, Panjguram, Bombay
 Ram Chandra Govind &
 Bombay

N. M. Tripathi & Co, Book-
 Kalbadrol Road, Bombay.
 New and Secondhand Bookshop
 Bombay

Kalbadrol Road,

Street, Bangalore
 Burma Book Club Ltd, Bangalore
 Manager The "Hillavada" Nagpur

R. N. Umrigar & Co, The oldest book shop
 Dharwar.

Thacker & Co, Amroli

PREFACE.

THIS, the third volume of the fifth edition of the General Acts, has been compiled on the same lines as the two preceding volumes

The Acts included in this volume are printed as modified up to the 31st December 1927

A L BANERJEE,
*Assistant Secretary,
Legislative Department,
Government of India.*

SIMLA,
The 25th October, 1928

LIST OF ABBREVIATIONS USED.

Aj Code	. . . For Ajmere Code
Bal Code	Baluchistan Code
Ben Code	Bengal Code
Bom Code	Bombay Code
Bnr Code	Burma Code
C P Code	Central Provinces Code
Mad Code	. , Madras Code
P and N-W F Code	„ Punjab and North West Frontier Code
U P Code	United Provinces Code
Coll Stat	, Collection of Statutes relating to India
Gen R and O	General Statutory Rules and Orders
Ben R and O	Bengal List of Local Statutory Rules and Orders
Bom R and O	, Bombay List of Local Rules and Orders
C P R and O	. , Central Provinces List of Local Rules and Orders
Mad R and O	Madras List of Local Rules and Orders
Coorg R and O	, Coorg List of Local Rules and Orders
Punjab R and O	Punjab List of Local Rules and Orders
U P R and O	United Provinces List of Local Rules and Orders
Bur R M	Burma Rules Manual

CHRONOLOGICAL TABLE OF THE UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL, 1887-1897.

(The figures in column 5 refer to the pages of this Volume.)

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1887	II	The Sea Customs Act (1878) Amendment Act 1887.	Short title given, Act 14 of 1897 Rep in part, Act 12 of 1891, " , Act 8 of 1894; " . Act 12 of 1896; " " Act 10 of 1914	1
	III	The Indian Evidence Act (1872) Amendment Act, 1887.	Short title given Act 14 of 1897 Declared in force in the South44 Provinces, Reg 3 of 1892, s 3, as amended by Reg 3 of 1899, s 3.	3
	VII	The Suits Valuation Act, 1887.	Rep in part, Act 12 of 1891. Amended, Act 38 of 1920 Declared in force— in British India, Reg 2 of 1913, s 3; in Upper Burma (except the Shan States) Act 13 of 1898, s 4	4
	IX	The Provincial Small Cause Courts Act, 1887	Rep in part, Act 10 of 1888 " " Act 12 of 1891, " " Act 9 of 1908. " " Act 4 of 1914; " " Act 10 of 1914 Rep in pt. (in Agra) U P Act 2 of 1901 Application barred in Nag- pore, Nag Act 7 of 1920.	7

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1887	IX— <i>contd</i>	The Provincial Small Cause Courts Act 1887— <i>contd</i>	Amended, Act 6 of 1914 ; , Act 11 of 1915 , , Act 9 of 1922 , , Act 1 of 1926 Declared in force— in British Baluchistan, Reg 2 of 1913, s 3 ; in Upper Burma (except the Shan States), Act 13 of 1898 s 4 in the Angul District, Reg 3 of 1913, s 3 in the Fargana of Manjūr, Reg 2 of 1926 s 2	
	XIV	The Indus Marine Act 1887	3 78 rep Act 5 of 1898 Amended, Act 17 of 1898 Act 1 of 1899 Rep in part and amended Act 10 of 1921 Declared in force— in Upper Burma (except the Shan States), Act 13 of 1898 s 4	23
1888	II	The Petroleum (Customs duty) Act 1888	Short title given Act 14 of 1897 Rep in part, Act 8 of 1894	51
	III	The Police Act 1888	5 1 rep in part Act 10 of 1914 § 2 (1) amended Act 12 of 1891 Declared in force— in British Baluchistan, Reg 2 of 1913 s 3 ; in Upper Burma (except the Shan States), Act 13 of 1898 s 4	51

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation.	Where published.
1888	IV	The Indian Reserve Force Act 1888	Declared in force in British Baluchistan, Reg 2 of 1913 s 3	53
	VIII	The Indian Tolls Act 1888	Short title given Act 14 of 1897 Rep in part Act 12 of 1891 Declared in force— in Upper Burma (except the Shan States) Act 13 of 1898, s 4	55
	XI	The Indian Telegraph (Presidency towns) Act 1888	Short title given, Act 14 of 1897	56
	XVII	The Indian Marine Act (1887) Amendment Act 1888	Short title given Act 14 of 1897	57
1889	I	The Metal Tokens Act 1889	Rep in part Act 5 of 1898 Rep in part Act 10 of 1914 Declared in force— in Upper Burma (except the Shan States) Act 13 of 1898 s 4; in the Arakan Hill District Reg 1 of 1916 s 2	57
	IA	The Measures of Length Act, 1889	Declared in force in Upper Burma (except the Shan States) Act 13 of 1898 s 4	60
	IV	The Indian Merchandise Marks Act 1889	Rep in part and amended, Act 9 of 1891 Rep in part Act 16 of 1904 Declared in force in Upper Burma (except the Shan States) Act 13 of 1898 s 1	61

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1869	VII	The Succession Certificate Act, 1869	Rep with the exception of s. 13 by Act 39 of 1925	73
	VIII	The Sea Customs Act, (1878) Amendment Act 1889	Short title given, Act 14 of 1897 Rep in part Act 8 of 1894	75
1890	I	The Revenue Recovery Act, 1890	Rep in part Act 19 of 1898, s. 18 S 1 rep in part, Act 10 of 1914 S 3 (2) amended, Act 4 of 1914 Modified in its application to be Benares Family Domains U P Act 8 of 1904 s. 15 Declared in force— in the Southal Parganas Reg 3 of 187 s. 3 as amended by Reg 3 of 1899, s. 3; in the Angul District, Reg 3 of 1913, s. 3 in Upper Burma (except the Shan States), Act 13 of 1893 s. 4; in the Arakan Hill District Reg 1 of 1916, s. 2;	76
	VI	The Charitable Endowments Act 1890	Rep in part Act 13 of 1893, s. 18 Rep in part and amended Act 39 of 1920 Declared in force— in the Southal Parganas Reg 3 of 1872 s. 3, as amended by Reg 3 of 1899 s. 3; in Upper Burma (except the Shan States) Act 13 of 1893 s. 4	79

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published.
1890	VIII	The Guardians and Wards Act, 1890	Rep in part, Act 13 of 1898 s 18, " " Act 6 of 1900 s 48, " " s 53 Act 5 of 1905; " " (in Central Provinces) Act 24 of 1899 Amended, Act 4 of 1926 Declared in force— in the Sonthal Parganas, Reg 3 of 1872 s 3 as amended by Reg 3 of 1899, s 3, in the Angul District, Reg 3 of 1913, s 3 in Upper Burma (except the Shan States) Act 13 of 1898, s. 4	85
	IX	The Indian Railways Act 1890	Rep in part, Act 13 of 1898, s 18 Rep in part and amended, Act 9 of 1899 Act 11 of 1917 Supplemented Act 4 of 1905 Amended Act 18 of 1919, " Act 32 of 1905; " Act 10 of 1927 Declared in force— in the Sonthal Parganas Reg 3 of 1872, s 3 as amended by Reg 3 of 1899 s. 3; in Upper Burma (except the Shan States) Act 13 of 1898, s. 4.	107

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise effected by legislation	Where published
1890	X	The Press and Registration of Books Act, (1867) Amendment Act, 1890	Short title given, Act 14 of 1897 Rep in part, Act 12 of 1891 Declared in force in the South Parganas, Reg 3 of 1872, s. 3, as amended by Reg 3 of 1899, s. 3	105 —
	XI	The Prevention of Cruelty to Animals Act, 1890 *	Amended, Act 14 of 1917 Declared in force— in the South Parganas, Reg. 3 of 1872, s. 3, as amended by Reg 3 of 1899, s. 3; in Upper Burma (except the Shan States), Act 13 of 1898 s. 4; in British Baluchistan, Reg 2 of 1918, s. 3; in the Angul Dist (certain portions of the Act) Reg 3 of 1913, s. 3 Am (in Bombay)— Bomb Act 13 of 1922 Bomb Act 9 of 1923	168
	XIII	The Excise (Malt Liquors) Act, 1890	Ss 2 & 3 rep., Act 12 of 1896 Title, preamble and s. 1 rep. in part, Act 10 of 1914. Ss. 6, 7 and 8 rep., Ben Act 6 of 1909, s. 23, and E B & A Act 1 of 1910, s. 2 S 9 declared in force in the Angul District, Reg 3 of 1913; in Upper Burma (except the Shan States), Act 13 of 1898, s. 4	172

* S 1 of Act 11, 1890, empowers Local Governments to direct, by notification in the Gazette, that the whole or any part of any other enactment for the prevention of cruelty to animals shall (until the Local Government, by notification or otherwise directed) cease to have effect in any local areas; which any part of the Act of 1890 has been extended by notification. Such Notifications are not noted in these Tables.

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*contd*

1	2	3	4	5
Year	No.	Short title	How repealed or otherwise affected by legislation	Where published.
1890	XVI	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890	Short title given, Act 14 of 1897. Rep in part Act 38 of 1920 Declared in force in the Southá Parganas Reg 3 of 1872 s 3 as am by Reg 3 of 1899, s 3	173
1891	I	The Cattle trespass Act (1871) Amendment Act, 1891	Short title given Act 14 of 1897 Rep in part, Act 15 of 1910 " Act 17 of 1921 The Act except ss 10 11 and 13, declared in force in the Southá Parganas Reg 3 of 1872 s 3 as amended by Reg 3 of 1899, s 3	173
	II	The Indian Christian Marriage Act (1872) Amendment Act 1891	Short title given Act 14 of 1897 Rep in part Act 12 of 1891 " Act 38 of 1920 Declared in force in the Southá Parganas Reg 3 of 1872 s 3 as amended by Reg 3 of 1899, s 3	176
	III	The Indian Evidence Act (1872) Amendment Act 1891	Short title given Act 14 of 1897 Rep in part Act 5 of 1898, " Act 5 of 1899, " " Act 10 of 1914. Declared in force in the Southá Parganas, Reg 3 of 1872, s 3 as amended by Reg 3 of 1899, s 3.	180
	VII	The Indian Registration of Ships Act (1841) Amendment Act, 1891	Short title given Act 14 of 1897 Rep in part and amended, Act 12 of 1891	182

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published.
1891	IX	The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891	Short title given, Act 14 of 1897 Ss 1 and 2 rep., Act 10 of 1904	185
	X	The Indian Criminal Law Amendment Act 1891	Short title given, Act 14 of 1897 Rep in part Act 5 of 1898 Declared in force in the Bombay Parganas Reg 3 of 1872 & 1 amended by R G 3 of 1892, s 3	187
	XII	The Amending Act, 1891	Rep in part, Act 9 of 1891, " " Act 12 of 1898, " " Act 5 of 1898, " " Act 13 of 1898 & 18 " " Act 2 of 1899, " " Act 8 of 1899, " " Act 3 of 1900, " " Act 6 of 1900, s 49, " " Act 1 of 1901, " " Act 16 of 1903; " " Act 5 of 1908, " " Act 6 of 1908, " " Act 15 of 1910,	188

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title.	How repealed or otherwise affected by legislation	Where published
1891	XII— <i>contd</i>	The Amending Act, 1891— <i>contd</i>	<p>Rep in part, Act 8 of 1911;</p> <p>" " Act 3 of 1913,</p> <p>" " Act 7 of 1913,</p> <p>" " Act 10 of 1914;</p> <p>" " Act 1 of 1917,</p> <p>" " Act 31 of 1920,</p> <p>" " Act 49 of 1920,</p> <p>" " Act 4 of 1922;</p> <p>" " Act 21 of 1923;</p> <p>" " Act 12 of 1927,</p> <p>" " Act 16 of 1927;</p> <p>" " Bor Act 4 of 1932,</p> <p>" " Punj Act 2 of 1900;</p> <p>" " Ben Act 2 of 1913</p> <p>" " B & O Act 1 of 1913</p> <p>How as to Act 23 of 1867 in British Bauch : an, Peg 4 of 1901 : 16</p> <p>Rep in part, Reg 1 of 1899 " " Peg 1 of 1900</p> <p>Declared in force in the Southd Parganna, Reg 3 of 1872, s 3 as amended by Peg 3 of 1899, s 3</p>	

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year	No.	Short title.	How repealed or otherwise affected by legislation	Where published.
1891	XVI	The Colonial Courts of Admiralty (India) Act, 1891.	Rep. in part, Act 6 of 1900, s. 43; Act 34 of 1926 (when notified). Amended, Act 6 of 1900, s. 47, Act 11 of 1923, Act 34 of 1926 (when notified) Amended (in Burma), Bur Act 11 of 1922 S 5 and sch. rep., Act 10 of 1914	199
	XVIII	The Packers' Books Evidence Act 1891	Amended, Act 1 of 1903. " Act 12 of 1900 S 1 rep. in part, Act 10 of 1914 Declared in force— in the Southd Parganas, Reg 3 of 1872, s. 3, as amended by Reg 3 of 1899, s. 3, in Upper Burma (except the Shan States), Act 13 of 1898, s. 4; in British Baluchistan, Reg 2 of 1913, s. 3.	201
1892	II	The Marriages Validation Act, 1892	Short title given, Act 14 of 1897. S 1 rep., Act 10 of 1914. Declared in force— in the Southd Parganas, Reg 3 of 1872, s. 3, as amended by Reg 3 of 1899, s. 3; in Upper Burma (except the Shan States), Act 13 of 1898 s. 4; in British Baluchistan, Reg 2 of 1913, s. 3.	203

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL.—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published.
1892	VIII	The Landowners' Bridge Act, 1892	S 1 rep in part, Act 10 of 1914	205
	X	The Government Management of Private Estates Act 1892	Rep in part, Act 13 of 1898, s 18 S 1 in part and s 9 rep., Act 10 of 1914 Declared in force— in the Smtbal Parganas, Reg 3 of 1872, s 3, as amended by Reg 3 of 1890, s 3, in Upper Burma (except the Shan States), Act 13 of 1898, s 4	206
1893	I	The Bankers' Books Evidence Act 1893	S 1 rep in part, Act 10 of 1914 Declared in force— in the Smtbal Parganas, Reg 3 of 1872, s 3, as amended by Reg 3 of 1890, s 3	208
	IV	The Partition Act 1893	S 1 rep in part, Act 10 of 1914 Declared in force in Upper Burma (except the Shan States), Act 13 of 1898, s 4	209
	XI	The Tributary Mahals of Orissa Act 1893	Preamble and s 1 rep. in pt., s 2 & sch. rep., Act 1 of 1903	211
1894	I	The Land Acquisition Act, 1894	Amended, Act 17 of 1919; Act 19 of 1921; Act 33 of 1923 Rep in part and amended, Act 33 of 1920 S 2 rep in part and amended, Act 10 of 1914 Ss. 40 (1) (b) and 41 (5) amended, Act 9 of 1910, s 57.	213

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1894	I— <i>contd</i>	The Land Acquisition Act, 1894— <i>contd</i>	S 55 rep in part, Act 4 of 1914 Applied, with modifications, to acquisitions of land under Bom Act 16 of 1905; Bom Act 5 of 1911 (as amended by Bom Act 3 of 1915, s 2), U P Act 8 of 1919, Muz Act 5 of 1920 Punjab Act 4 of 1922, C P Act 2 of 1922 Declared in force— in the Sonthāl Parganas, Reg 3 of 1872, s 3, as amended by Reg 3 of 1899, s 3 in Upper Burma (except the Shan States) Act 13 of 1899, s 1, in British Baluchistan, Reg 2 of 1913, s 3, in the Anglo Des Reg 3 of 1913, s 3	
	III	The Indian Criminal Law Amendment Act, 1891	Short title given, Act 11 of 1897. Ss 1 to 4 rep., Act 5 of 1898 Rep in part, Act 10 of 1914 Declared in force in the Sonthāl Parganas, Reg. 3 of 1872, s 3 as amended by Reg 3 of 1891, s 3	235
	VIII	The Indian Tariff Act, 1894.	S 8 B inserted by Act 8 of 1902 and continued in force by Act 11 of 1904 Amended, Act 14 of 1899, " Act 8 of 1902, " Act 12 of 1903; " Act 10 of 1914; " Act 4 of 1916;	237

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation on	Where published
1894	VIII— <i>contd</i>	The Indian Tariff Act, 1894— <i>contd</i>	Amended Act 13 of 1916, „ Act 6 of 1917, „ Act 19 of 1919; „ Act 12 of 1922; „ Indian Finance Act 1913, „ Act 9 of 1924; „ Indian Finance Act 1924; „ Act 14 of 1924; „ Act 13 of 1925; „ Act 14 of 1925, „ Act 25 of 1925; „ Act 17 of 1926, „ Act 3 of 1927, „ Act 5 of 1927, „ Act 20 of 1927; „ Act 23 of 1927, „ Act 24 of 1927 Rep in part, Act 6 of 1921 S & rep— in U P, U P. Act 4 of 1910, in C P, C P Act 2 of 1915, in Punjab, Punjab Act 1 of 1914, in Burma, Bur. Act 5 of 1909 in Madras, Mad. Act 1 of 1894, as amended by Mad. Act 1 of 1913, in Burma, Bur. Act 5 of 1917	

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1894	VIII— <i>contd</i>	The Indian Tariff Act 1894— <i>contd</i>	6 rep— in Assam, E B & A Act 1 of 1910, S 8B revived, Act 11 of 1904 Declared in force— in the Sonthāl Parganas, Reg 3 of 1872 s 8, as amended by Reg 3 of 1899, s 3	
	IX	The Prisons Act, 1894	Rep in part, Act 13 of 1898, s 18 Amended, Act 13 of 1910, Act 10 of 1914, Act 17 of 1925 .. (in Punjab), Punjab Act 9 of 1926 Declared in force— in the Sonthāl Parganas, Reg 3 of 1872 s 3 as amended by Reg 3 of 1899, s 3, in Upper Burma (except the Shan States) Act 13 of 1898, s 4; in the Angul Dist, Reg 3 of 1913 s 3	270
	XIII	The Amending (Army) Act, 1894	Rep in part Act 1 of 1903 Act 4 of 1912, Act 4 of 1922	293
1895	1	The Presidency Small Cause Courts Act, 1895	S 5 viii amended, Act 3 of 1899, s 4 Rep in part, Act 1 of 1903 S 3 (2) and s 12 rep, Act 10 of 1914	295

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN
COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1895	III	The Indian Criminal Law Amendment Act, 1895	Short title given, Act 14 of 1897 S 5 rep, Act 4 of 1909 S 6 rep, Act 5 of 1900 S. 7 rep Act 6 of 1898 Rep in part, Act 10 of 1914 Declared in force— in the Southal Parganas, Reg 3 of 1872 s 3, as amended by Reg 3 of 1899, s 3	299
	VIII	The Police Act (1861) Amendment Act 1895	Short title given, Act 14 of 1897 Rep in part (in Rangoon), but Act 4 of 1899, s 2 Portions extended to Calcutta and Suburbs, with modifica- tions, Sec Act 1 of 1898 S 5 rep in part in N-W F Province, Reg 7 of 1901, s 3 Declared in force— in the Southal Parganas, Reg 3 of 1872, s 3, as amended by Reg 3 of 1899, s 3	302
	X	The Indian Railway Com- panies Act, 1825	S 1 rep in part, Act 10 of 1914 Application to Tramway Companies authorized, Act 4 of 1902 Declared in force in Upper Burma (except the Shan States), Act 13 of 1898, s 4	303

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1895	XV	The Crown Grants Act, 1885	S 1 rep in part, Act 10 of 1914 Declared in force— in Upper Burma (except the Shan States), Act 13 of 1888, s 4, in British Baluchistan, Reg 2 of 1913, s 3	310
1896	VI	The Indian Penal Code Amendment Act 1896	Short title given, Act 14 of 1897 Declared in force in the Central Provinces, Reg 3 of 1892, s 3 as amended by Reg 2 of 1899, s 3	311
	VIII	The Indian Bonded Warehouses Act, 1896	Ss 1 and 4 rep in part, Act 10 of 1914 S 7 rep in part, Act 4 of 1913	312
	IX	The Indian Railway-Act (190) Amendment Act, 1896.	Short title given, Act 14 of 1897 S 5 rep, Act 10 of 1914 Declared in force in the Central Provinces Reg 3 of 1892, s 3 as amended by Reg 3 of 1899, s 3	313
	XI	The Legal Practitioners' Act, 1896.	Short title given, Act 14 of 1897	316
1897	I	The Public Servants (Inquiries) Act (1850) Amendment Act, 1897	Short title given, Act 14 of 1897	319
	III	The Epidemic Diseases Act, 1897.	S 1 rep in part, Act 10 of 1914 Rep in part, Act 13 of 1898, s 16 Rep in part and amended, Act 35 of 1900	320

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd.*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published.
1897	III— <i>contd</i>	The Epidemic Diseases Act, 1897— <i>contd</i>	Declared in force— in the Southal Parganas, Reg 3 of 1872 s 3, as amended by Reg 3 of 1893, s 3, in Upper Burma (except the Shan States), Act 15 of 1893 s 4 in the Assam District, Reg 3 of 1913, s 3	
	IV	The Indian Fisheries Act, 1897	S 1 rep in part, Act 10 of 1914 Declared in force in British Baluchistan, Reg 2 of 1913, s 3	321
	V	The Amending Act, 1897	So much of s 2 and Schs 1 and 2 as relates to Act 1 of 1887, and Ben Act 1 of 1889 rep., Act 6 of 1901 So much of Sch 2 as relates to Ben Act 1 of 1881, rep., Ben. Act 6 of 1903, s 93, E B & A. Act 1 of 1910, s 2 Rep in part Act 1 of 1903. " " Act 10 of 1914, " " Act 4 of 1922, " " Act 12 of 1927.	324
	VI	The Negotiable Instru- ments Act Amendment Act, 1897	S 1 rep in part, Act 10 of 1914	331
	VIII	The Reformatory Schools Act, 1897.	S 1 rep in part, Act 10 of 1914 S 5 rep in part, Act 4 of 1914 S 30 rep., Act 3 of 1900 Rep (in Bengal) by Ben Act 2 of 1922 Am in Bombay, Bom. Act 13 of 1924	332

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*contd*

1	2	3	4	5
Year	No	Short title	How repealed or otherwise affected by legislation	Where published
1897	VIII— <i>contd</i>	The Reformatory Schools Act, 1897— <i>contd</i>	Declared in force— in the SoutháI Parganas, Reg 3 of 1872, s. 3, as amended by Reg 3 of 1899, s. 3, in Upper Burma (except the Shan States), Act 13 of 1898, s. 4, in British Baluchistan, Reg 2 of 1913, s. 3, in the Angul District, Reg 3 of 1913, s. 3, in the Arsalan Hill District Reg 1 of 1916, s. 2	
	X	The General Clauses Act 1897	Rep in part and amended, Act 1 of 1903, Act 10 of 1914, Act 13 of 1919 Amended Act 17 of 1914 “ Act 24 of 1917, “ Act 31 of 1920, “ Act 11 of 1923 Declared in force— in the SoutháI Parganas, Reg 3 of 1872 s. 3 as amended by Reg 3 of 1899 s. 3. in the Chittagong Hill Tracts, Reg 1 of 1900, s. 4; in Upper Burma (except the Shan States), Act 13 of 1898, s. 4; in British Baluchistan, Reg 2 of 1913 s. 3, in the Angul District, Reg 3 of 1913, s. 3;	343

UNREPEALED ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*concl'd*

1	2	3	4	5
Year	No.	Short title	How repealed or otherwise affected by legislation.	Where published.
1827	<i>X— cont'd</i>	The General Clauses Act, 1897— <i>cont'd</i>	Declared in force— in the Arakan Hill District, Reg 1 of 1916, s. 2, in the Pargana of Manipur, Reg 2 of 1926, s. 2	
	XIV	The Indian Short Titles Act, 1897	Sch rep in part— Act 5 of 1898, Act 8 of 1899, Act 13 of 1899, Act 2 of 1900; Act 8 of 1911, Act 10 of 1914, Act 1 of 1917, Act 7 of 1918, Act 4 of 1922; Act 21 of 1923, Act 3 of 1925, Act 7 of 1926, Act 12 of 1927 Sch rep as to Act 3 of 1894 (so far as it relates to Act 10 of 1893)— Act 5 of 1898 S 1 rep in part, Sch rep in part and amended, Act 10 of 1914 Declared in force— in Upper Burma (except the Shan States), Act 13 of 1898, s. 4; in British Baluchistan, Reg 2 of 1913, s. 3; in the Angul District, Reg. 3 of 1913, s. 3; in the Arakan Hill District, Reg 1 of 1916, s. 2	360

THE
UNREPEALED GENERAL ACTS
OF
THE GOVERNOR GENERAL IN COUNCIL,
1887-1897.

ACT No II of 1887¹

[14th January, 1887.]

An Act to amend the Sea Customs Act, 1878, * * * *

II of 1878 WHEREAS it is expedient to amend the Sea Customs Act, 1878, * * * *;
It is hereby enacted as follows —

* * * * *

II of 1878. 1. (1) In clause (b) of the second paragraph of section 144 of the Sea Customs Act, 1878, there shall be inserted after the word "unless" the Amendment of section 144.

¹ Short title, "The Sea Customs Act (1878) Amendment Act, 1887," see the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons, see Gazette of India, 1887, Extraordinary, dated 10th January, 1887, p. 1, and for Proceedings in Council, see *ibid*, Pt. VI, pp. 4 and 10

This Act so far as it amends the Sea Customs Act, 1878 (3 of 1878), is in force in—

(1) Upper Burma (except the Shan States) as being part of the original Act 3 (13 of 1893) see s. 4 and the

Act declared in force there by & O Code Vol. I
"Indian Tariff Act 1882" in this Act as relates to the Excise of 1896) and the Tariff Act, 14 (8 of 1894)
repealed by the Repealing and

word "either" and after the word "destination" the following, namely —

"or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port"

(2) In the third paragraph of the same section of the same Act the following shall be substituted for the word "paid," namely —

"so paid or the spirit so delivered"

2 In section 146 of the same Act, for the word "shall," in each of the two places where that word occurs, the word "may" shall be substituted

3 (1) To section 148 of the same Act the following words shall be prefixed namely —

"Notwithstanding anything in the 'Indian Tariff Act, 1882'" XI of 1882

(2) To the same section of the same Act the following shall be added namely —

Provided that the Local Government may authorize the import of such spirit without the payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf and the excise duty thereon is to be paid on the removal of the spirit from a warehouse so appointed"

4 (1) To section 151 of the same Act the following words shall be prefixed namely —

"Notwithstanding anything in the 'Indian Tariff Act, 1882'" XI of 1882

(2) After the same section of the same Act the following shall be added namely —

'Provided that the Local Government may authorize the import of such spirit without the payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed"

5 & 6 [Amending Excise Act 1881] Rep by the Excise Act, 1896 (XII of 1896)

7 [Repeal of portion of preamble, Act XI of 1882] Rep by the Repealing and Amending Act 1891 (XII of 1891)

8. [Addition to s 7, Act XI of 1882] Rep by the Tariff Act, 1894 (VIII of 1894)

9. [Amendment of second schedule, Act XI of 1882.] Rep. by the Repealing and Amending Act, 1891 (XII of 1891).

ACT No III of 1887¹

[14th January, 1887.]

An Act to amend the Indian Evidence Act, 1872

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue, It is hereby enacted as follows —

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely —

New section substituted for section 125 of the Evidence Act.

"125 No Magistrate or Police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue

Information as to commission of offences.

Explanation — 'Revenue officer' in this section means any officer employed in or about the business of any branch of the public revenue'

¹ Short title, "The Indian Evidence Act (1872) Amendment Act, 1887," see the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons, see Gazette of India, 1886, Pt V, p 793, for Report of the Select Committee, see *ibid*, 1887, Pt IV, p 7, and for Proceedings in Council, see *ibid*, 1886, Supplement, pp 1132 and 1155, and *ibid*, 1887, Pt VI, p 11

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, 1 of 1872, declared in force there by the Burma Laws Act, 1893 (13 of 1893), Bur Code

Act 3 of 1887 had been previously extended there under s 5 of the Scheduled Districts Act, 1874 (14 of 1874), see Burma Gazette, 1888, Pt I, p 362, and Gazette of India, 1888, Pt I, p 371

in South M Parganas, under s 3 of the South M Parganas & O Code, Vol I

in British Baluchistan by the 1913, s 3, Bal Code, in the (3 of 1913), s 3, B & O Code, by the Kachin Hill District regards Hill-tribes, by the Chin he Chittagong Hill tracts by the Ben Code, and in the Hill District of Arakan by the Arakan Hill District Laws Regulation 1916 (1 of 1916), s 2 Bur Code, Vol I

Per
Jus

Br
An
in
Reg
Hil

Chittagong Hill tracts Regulation, 1888 (1 of 1888), Ben Code, and in the Hill District of Arakan by the Arakan Hill District Laws Regulation 1916 (1 of 1916), s 2 Bur Code, Vol I

(Part I—Suits relating to Land)

ACT No VII OF 1887¹

[11th February, 1887]

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto It is hereby enacted as follows —

Title.

1 This Act may be called the Suits Valuation Act, 1887

PART I

SUITS RELATING TO LAND

Extent and commencement of Part I

2 This Part shall extend to such local areas, and come into force therein on such dates as the Governor General in Council, by notification in the Gazette of India, directs²

Power for Local Government to make rules determining value of land for jurisdictional purposes.

3 (1) The Local Government may, ³[subject to the control] of the Governor General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court fees Act 1870, section 7, paragraphs v and vi, and paragraph x, clause (d) VI

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area and may prescribe different values for different places within the same local area

Valuation of relief in certain suits relating to land not to exceed the value of the land

4 Where a suit mentioned in the Court fees Act, 1870, section 7, paragraph iv, or Schedule II, article I7, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules

Gazette of India, 1886, Pt V, p 791,
1887 Pt IV, p 18, and for Pro
p 1131 and 1155 and *ibid* 1887,

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1893 (13 of 1893) *see s 4* and the First Schedule Bur Code

It had previously been extended thereto by notification under a 5 of the Scheduled Districts Act 1874 (14 of 1874) *see* Burma Gazette 1886, Pt I p 302 and Gazette of India 1883 Pt I p 371

It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation 1913 (2 of 1913) Bal Code

¹ Part I of the Act has under a 2 been declared to extend to the Punjab, and to come into force therein on the 1st day of March 1889 *see* Gazette of India 1889 Pt I p 107

² These words were substituted for the words 'with the previous sanction' by s 2 and Sch 1 of the Devolution Act 1900 (38 of 1900)

(Part I.—Suits relating to Land. Part II.—Other Suits. Part III —
Supplemental Provisions.)

5. (1) The Local Government shall, before making rules under section 3, consult the High Court with respect thereto. Making and enforcement of rules

(2) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette.

6. On and from the date on which rules under section 3 take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council to which the Madras Civil Courts Act, 1873, extends, section 11 of that Act shall be repealed as regards that part of those territories Repeal of section 11 of the Madras Civil Courts Act, 1873

PART II.

OTHER SUITS.

7. This Part extends to the whole of British India, and shall come into force on the first day of July, 1887. Extent and commencement of Part II

8. Where in suits other than those referred to in the Court-fees Act, 1870, section 7, paragraphs v, vi and ix, and paragraph x, clause (d), court-fees are payable *ad valorem* under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same. Court fee value and jurisdictional value to be the same in certain suits.

9. When the subject-matter of suits of any class, other than suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for the purposes of the Court-fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf. Determination of value of certain suits by High Court

10. [Repeal of s. 32, Punjab Courts Act, 1884 (XVIII of 1884).]
Rep. by the Repealing and Amending Act, 1891 (XII of 1891).

PART III.

SUPPLEMENTAL PROVISIONS.

11. (1) Notwithstanding anything in section 578 of the Code of Civil Procedure, an objection that by reason of the over-valuation or under- Procedure where objection is taken

¹ Mad. Code

² For rules as to valuation of certain classes of suits under this section, see different local Rules and Orders.

³ See now s. 99 of the Code of Civil Procedure, 1908 (Act 5 of 1908)

(Part I—Suits relating to Land)

ACT No VII of 1887.¹

[11th February, 1887.]

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto, It is hereby enacted as follows —

Title.

1 This Act may be called the Suits Valuation Act, 1887

PART I

SUITS RELATING TO LAND

Extent and
commence
ment of
Part I

2. This Part shall extend to such local areas, and come into force therein on such dates, as the Governor General in Council, by notification in the Gazette of India, directs.²

Power for
Local Gov
ernment to
make rules
determining
value of land
for jurisdic
tional pur
poses

3 (1) The Local Government may, ³[subject to the control] of the Governor General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d) VII

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area and may prescribe different values for different places within the same local area

Valuation of
relief in
certain suits
relating to
land not to
exceed the
value of the
land

4. Where a suit mentioned in the Court-fees Act, 1870, section 7, paragraph iv, or Schedule II, article 17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules

¹ For Statement of Objects and Reasons, see Gazette of India, 1886, Pt V, p 791, for Report of the Select Committee, see *ibid*, 1887, Pt IV, p 18, and for Proceedings in Council see *ibid*, 1886, Supplement, pp 1131 and 1155, and *ibid*, 1887, Pt VI, pp 16 and 21

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1893 (13 of 1893), see s 4 and the First Schedule, Bur Code

It had previously been extended there by notification under s 5 of the Scheduled Districts Act 1874 (14 of 1874), see *Burma Gazette*, 1889, Pt I, p 363, and *Gazette of India*, 1883, Pt I, p 771

It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), Bal Code

² Part I of the Act has, under s 2 been declared to extend to the Punjab, and to come into force therein on the 1st day of March, 1889, see *Gazette of India*, 1889, Pt I, p 107

³ These words were substituted for the words "with the previous sanction" by s 2 and Sch 1 of the Devolution Act 1920 (39 of 1920)

(Part I—Suits relating to Land Part II—Other Suits Part III—
Supplemental Provisions)

5. (1) The Local Government shall, before making rules under section 3, consult the High Court with respect thereto

Making, and
enforcement
of rules

(2) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette

6 On and from the date on which rules under section 3 take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council to which the 'Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part of those territories

Repeal of
section 14
of the Madras
Civil Courts
Act 1873

PART II

OTHER SUITS

7 This Part extends to the whole of British India, and shall come into force on the first day of July 1887

Extent and
commence-
ment of Part
II

8 Where in suits other than those referred to in the Court fees Act, 1870, section 7, paragraphs v, vi and ix, and paragraph x, clause (d), court fees are payable *ad valorem* under the Court fees Act 1870, the value as determinable for the computation of court fees and the value for purposes of jurisdiction shall be the same

Court fee
value and
jurisdictional
value to be
the same in
certain suits.

9 When the subject-matter of suits of any class, other than suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for the purposes of the Court fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject matter were of such value as the High Court thinks fit to specify in this behalf

Determina-
tion of value
of certain
suits by High
Court

10. [Repeal of s 32, Punjab Courts Act, 1884 (XVIII of 1884)]
Rep by the Repealing and Amending Act, 1891 (XII of 1891)

PART III

SUPPLEMENTAL PROVISIONS

11 (1) Notwithstanding anything in section 578 of the 'Code of Civil Procedure, an objection that by reason of the over valuation or under-

Procedure
where objec-
tion is taken

¹ Mad Code

² For rules as to valuation of certain classes of suits under this section, see different local Rules and Orders

³ See now s 22 of the Code of Civil Procedure, 1908 (Act 5 of 1908)

(Part III—Supplemental Provisions)

on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes

valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

- (a) the objection was taken in the Court of first instance or before the hearing at which issues were first framed and recorded or in the lower appellate Court in the memorandum of appeal to that Court or
- (b) the appellate Court is satisfied for reasons to be recorded by it in writing that the suit or appeal was over-valued or under valued, and that the over valuation or under valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits

(2) If the objection was taken in the manner mentioned in clause (a) of sub section (1) but the appellate Court is not satisfied as to both the matters mentioned in clause (b) of that sub section and has before it the materials necessary for the determination of the other grounds of appeal to itself it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of the first instance or lower appellate Court

(3) If the objection was taken in that matter and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals, but if it remands the suit or appeal or frames and refers issues for trial or requires additional evidence to be taken it shall direct its order to a Court competent to entertain the suit or appeal

(4) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 622 of the Code of Civil Procedure or other enactment for the time being in force

(5) This section extends to the whole of British India, and shall come into force on the first day of July 1887

12 Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court—

- (a) with respect to any suit instituted before rules under Part I applicable to the valuation of the suit take effect, or Part II has come into force as the case may be or
- (b) with respect to any appeal arising out of any such suit

¹ See now s 115 of the Code of Civil Procedure 1908 (Act 5 of 1908)

THE PROVINCIAL SMALL CAUSE COURTS ACT 1887

CONTENTS

CHAPTER I

PRELIMINARY

SECTIONS

- 1 Title, extent and commencement
- 2 Construction
- 3 Savings
- 4 Definition

CHAPTER II

CONSTITUTION OF COURTS OF SMALL CAUSES

- 5 Establishment of Courts of Small Causes
- 6 Judge
- 7 Appointment of times of sitting in certain circumstances
- 8 Additional Judges
- 9 Suspension and removal of Judges
- 10 Power to require two Judges to sit as a bench
- 11 Decision in case heard by a bench
- 12 Registrar
- 13 Other ministerial officers
- 14 Duties of ministerial officers

CHAPTER III

JURISDICTION OF COURTS OF SMALL CAUSES

- 15 Cognizance of suits by Courts of Small Causes
- 16 Exclusive jurisdiction of Courts of Small Causes

CHAPTER IV

PRACTICE AND PROCEDURE

SECTIONS

- 17 Application of the Code of Civil Procedure
- 18 Trial of suits by Registrar
- 19 Admission, return and rejection of plaints by Registrar
- 20 Passing of decrees by Registrar on confession
- 21 Execution of decrees by Registrar
- 22 Adjournment of cases by chief ministerial officer
- 23 Return of plaints in suits involving questions of title
- 24 Appeal from certain orders of Courts of Small Causes
- 25 Revision of decrees and orders of Courts of Small Causes
- 26 [*Repealed*]
- 27 Finality of decrees and orders

CHAPTER V

SUPPLEMENTAL PROVISIONS

- 28 Subordination of Courts of Small Causes
- 29 Seal
- 30 Abolition of Courts of Small Causes
- 31 Saving of power to appoint Judge of Court of Small Causes to other office
- 32 Application of Act to Courts invested with jurisdiction of Court of Small Causes
- 33 Application of Act and Code to Court so invested as to two Courts
- 34 Modification of Code as so applied
- 35 Continuance of proceedings of abolished Courts
- 36 [*Repealed*]
- 37 Publication of certain orders

THE FIRST SCHEDULE — [*Repealed*]

THE SECOND SCHEDULE — SUITS EXCEPTED FROM THE COGNIZANCE
OF A COURT OF SMALL CAUSES

ACT No. IX of 1887.¹

[24th February, 1887.]

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay; It is hereby enacted as follows:—

CHAPTER I.

PREFATORY.

1. (1) This Act may be called the Provincial Small Cause Courts Act, 1887 Title, extent and commencement
- (2) It extends to the whole of British India; and
- (3) It shall come into force on the first day of July, 1887.

¹ For Statement of Objects and Reasons, see Gazette of India, 1885, Pt V, p 8; for Report of the Select Committee see *ibid*, 1887, Pt IV, p 33, and for Proceedings in Council, see *ibid*, 1886, Supplement, pp 8 and 9, and *ibid*, 1887, Pt VI, p 25

Act 9 of 1887 has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913) s 3, Bal Code, in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913), s 3, in the Pargana of Manpur by Regulation 2 of 1920, s 2

It has been declared, under s 3 (a) of Act 1 of 1874 (1874), to be in force in the Districts of Pargana Dhalhum and the Kolhan in India 1887, Pt 1, p 542. The District of Calcutta Gazette, 1889, Pt of Palamanu, which was separated in 1891

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), see s 4 and the First Schedule, Bur Code.

It had previously been extended, under s 5 of Act 14 of 1874,—

(a) to the Town of Mandalay, see Gazette of India, 1883, Pt I, p 88, and

(b) to the whole of Upper Burma (except the Shan States), see Gazette of India, 1897, Pt 1, p 993

For power to confer upon a Subordinate Judge or Munsif in Bengal, the Province of Agra and Assam, the jurisdiction of a Court of Small Causes under this Act, see the Bengal, Agra and Assam Civil Courts Act, 1837 (12 of 1837), s 25

Ss 15, 32, 37, 33, 39 and 40 of the Bengal, Agra and Assam Civil Courts Act, 1837 (12 of 1837) apply to Courts of Small Causes constituted under this Act, see Act 12 of 1837, s 40

The powers of a Court of Small Causes under this Act have been conferred upon the Courts of a Sub-divisional Officers of Angul and of the Khondmals by section 14 of the Angul Laws Regulation, 1913, 3 of 1913, B & O Code, Vol I

¹ As to definition of "British India," see Interpretation Act (52 and 53 Vict, c 69), s 18 and Gazette of India, 1889, Pt 1, p 545, and the General Clauses Act, 1897 (10 of 1897), s 3 (7)

(Chapter I—Preliminary Chapter II—Constitution of Courts of Small Causes)

2 (1) ^{1*} * * *

Construction

(2) ^{1*} All Courts constituted, limits fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed, directions given and notifications published under ²Act No XI of 1865 (*an Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act

(3) Any enactment or document referring to ²Act No XI of 1865 or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof

Savings.

3. Nothing in this Act shall be construed to affect—

(a) any proceedings before or after decree in any suit instituted before the commencement of this Act, or

(b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of village-munsifs or village panchayats, under the provisions of the Madras Code, or of village-munsifs under the ³Dekkan Agriculturists' Relief Act, 1879, or

(c) any local law or any special law other than the Code of Civil Procedure

XV
187

Definition

4 In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court

CHAPTER II

CONSTITUTION OF COURTS OF SMALL CAUSES

Establishment of Court of Small Causes

5 (1) The Local Government * * * may, by order in writing, establish a Court of Small Causes at any place within the territories

¹ Sub-section (1) and the word "But" at the beginning of sub-section (2) were repealed by the Repealing and Amending Act, 1891 (12 of 1891)

² Act 11 of 1865 was repealed by a 2 (1) of this Act

³ Bom Code

⁴ The words "with the previous sanction of the Governor General in Council" were omitted by Schedule Part I, of the Decentralization Act 1914 (4 of 1914)

(Chapter II.—Constitution of Courts of Small Causes.)

under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency-town.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.¹

6. (1) When a Court of Small Causes has been established, the Local Judge Government shall, by order in writing, appoint a Judge of the Court.²

(2) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts, as the Local Government directs.

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge. Appointment of times of sitting in certain circumstances.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

8. (1) The Local Government " " " " may, by order in writing, appoint "[Additional Judges] of a Court of Small Causes or of two or more such Courts. Additional Judges.

(2) "[An Additional] Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(3) The Judge may withdraw from "[an Additional] Judge any business pending before him.

(4) When the Judge is absent, the "[senior] Additional Judge may discharge all or any of the functions of the Judge.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government. Suspension and removal of Judge.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes or a Judge and an Additional Judge of a Court of Small Causes shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order. Power to require two Judges to sit as a bench.

¹ For notifications issued under cl (2) of s. 5 for Courts, see different local Rules and Orders.

² " " " " issued under this section, see *Bar. R. M.*

" " " " of the *General Council of the Council*

" " " " of the

Repealing and Amend.

³ These words were substituted for the words "the Additional" by s. 17

⁴ This word was inserted by s. 17.

(Chapter II—Constitution of Courts of Small Causes)

Decisions in
cases heard by
a bench.

11 (1) If two Judges or a Judge and an Additional Judge sitting together under the last foregoing section differ as to a question of law or usage having the force of law or in construing a document the construction of which may affect the merits they shall draw up and refer for the decision of the High Court a statement of the facts of the case and of the point on which they differ in opinion and the provisions of Chapter XLVI of the Code of Civil Procedure shall apply to the reference.

(2) If they differ on any matter other than a matter specified in subsection (1) the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes or if one of them is an Additional Judge then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of subsection (2) a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

Registrar

12 (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.²

(2) Where a Registrar is appointed he shall be the chief ministerial officer of the Court.

(3) The Local Government may by order in writing confer upon a Registrar within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may by general or special order direct.

(5) A Registrar may be suspended or removed from office by the Local Government.

Other ministerial
officers.

13 Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf the law or practice for the time being applicable to the appointment, punishment and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall so far as it can be made applicable apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar if any of that Court.

Duties of
ministerial
officers.

14 (1) The ministerial officers of a Court of Small Causes shall in addition to any duties mentioned in this Act or in any other enactment for the time being in force as duties which are or may be imposed on any

¹ See rows 113 and 115 and the first Schedule Order XXVI of the Code of Civil Procedure 1908 (5 of 1908).

² For instance of a notification issued under this section see Bom. R. & O., Vol. I.

(Chapter II—*Constitution of Courts of Small Causes* Chapter III—*Jurisdiction of Courts of Small Causes* Chapter IV—*Practice and Procedure*)

of them discharge such duties of a ministerial nature as the Judge directs

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers¹ of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed

CHAPTER III

JURISDICTION OF COURTS OF SMALL CAUSES

15 (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes Cognizance of suits by Courts of Small Causes

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order²

16 Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable Exclusive jurisdiction of Courts of Small Causes

CHAPTER IV

PRACTICE AND PROCEDURE

17 (1) The procedure prescribed in the Code of Civil Procedure, 1905, shall save in so far as is otherwise provided by that Code or by this Act,] be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits Application of the Code of Civil Procedure

¹ For instance, if a notification issued under this power, see *Bye P. & O., No. J*

² For notifications issued under this power, see *Provincial Small Cause Courts Ord.*

³ These words were substituted by the Small Cause Courts (Amendment) Act, 1924 (Act of Immovable Property) Act, 1924 (Act of 1924)

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct

(2) Where a person has become liable as surety under the proviso to sub section (1), the security may be realized in manner provided by section ¹[145] of the Code of Civil Procedure, ²[1908]

18 (1) Suits cognizable by the Registrar under section 12, sub sections (3) and (4) shall be tried by him and decrees passed therein shall be executed by him in like manner in all respects as the Judge might try the suits and execute the decrees, respectively

(2) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar

19 (1) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent the Registrar may admit a plaint or return or reject a plaint for any reason for which the Judge might return or reject it

(2) The Judge may of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him

Provided that where a party applies for the return or rejection or the admission of a plaint under this sub section and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting

20 (1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorized in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge

(2) Where a decree has been passed by the Registrar under sub section (1) the Judge may grant an application for review of judgment and rehear the suit, on the same conditions on the same grounds and in the same manner as if the decree had been passed by himself

¹ These figures were substituted by the Small Cause Courts (Attachment of Immoveable Property) Act 1926 (1 of 1926)

² These figures were added in 1914

Trial of
suits by
Registrar

Admission
return and
rejection of
plaints by
Registrar

Passing of
decrees by
Registrar on
confession.

(Chapter IV—Practice and Procedure)

21 (1) If the Judge is absent, and an Additional Judge has not been appointed or having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar or sent to that Court for execution, which the Judge might make under this Act

Execution
of decrees by
Registrar

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (1), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order reverse or modify the order

(3) The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the Indian Limitation Act 1877 as though the application of the party were an application for review of judgment

22 When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof

Adjournment
of cases by
chief ministerial
officer

23 (1) Notwithstanding anything in the foregoing portion of this Act when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title

Return of
plaints in
suits involving
questions of
title

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction

¹ See now the Indian Limitation Act 1908 (3 of 1908)

² See now the First Schedule Order VII rule 10 of the Code of Civil Procedure, 1908 (Act 5 of 1908)

(Chapter IV—Practice and Procedure Chapter V—Supplemental Provisions)

Appeal from certain orders of Courts of Small Causes

24 Where an order specified in ¹[clause (ff) or clause (h) of sub-section (1) of section 104 of the Code of Civil Procedure, 1908,] is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court ²[on any ground on which an appeal from such order would lie under that section]

Revision of decrees and orders of Courts of Small Causes

25 The High Court for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law may call for the case and pass such order with respect thereto as it thinks fit

26 [Amendment of the second schedule to the Code of Civil Procedure] Rep by the Presidency Small Cause Courts Law Amendment Act 1888 (X of 1888), s 4

Finality of decrees and orders

27 Save as provided by this Act a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final

CHAPTER V

SUPPLEMENTAL PROVISIONS

Subordination of Courts of Small Causes

28 (1) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the High Court, and shall—

- (a) keep such registers books and accounts as the High Court from time to time prescribes and
- (b) comply with such requisitions as may be made by the District Court the High Court or the Local Government for records returns and statements in such form and manner as the authority making the requisition directs

(2) The relation of the District Court to a Court of Small Causes with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established

Seal

29 A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government

¹ These words were substituted for the words "section 528 clause (20) of the Code of Civil Procedure" by s 5 of the Civil Procedure (Amendment) Act 1922 (9 of 1922)

² These words were added by s 161

(Chapter V—*Supplemental Provisions*)

30. The Local Government may, by order in writing, abolish a Court of Small Causes

Abolition of Courts of Small Causes

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office

Saving of power to appoint Judge of Court of Small Causes to other office

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office

32. (1) So much of Chapters III and IV as relates to—

Application of Act to Courts invested with jurisdiction of Court of Small Causes

(a) the nature of the suits cognizable by Courts of Small Causes,

(b) the exclusion of the jurisdiction of other Courts in those suits

(c) the practice and procedure of Courts of Small Causes,

(d) appeal from certain orders of those Courts and revision of cases decided by them and

(e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts

(2) Nothing in sub section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction

33. A Court invested with the jurisdiction of a Court of Small Causes with respect to the exercise of that jurisdiction and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different courts

Application of Act and Code to Court so invested as to two Courts

34. Notwithstanding anything in the last two foregoing sections,—

Modification of Code as so applied

(a) when in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or

¹ For instance of a notification abolishing a Court of Small Causes (Broach), see Bombay Govt Gazette, 1907 Pt 1, p 32

² For instances of notifications issued under this power see U P List of Local R & O, Vol 1

³ See now the Code of Civil Procedure, 1908 (Act 5 of 1908)

(Chapter V—Supplemental Provisions The First and Second Schedules)

- (b) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,

the documents mentioned in ¹section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent

Continuance
of proceed-
ings of
abolished
Courts

35 (1) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case whether before or after decree, which, if the Court had not ceased to have jurisdiction might have been had therein, may be had in the Court which if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit

(2) Nothing in this section applies to cases for which special provision is made in the ²Code of Civil Procedure as extended to Courts of Small Causes or in any other enactment for the time being in force

36 [Amendment of Indian Limitation Act] Rep Act IX of 1908

Publication
of certain
orders

37 All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette

THE FIRST SCHEDULE

[ENACTMENTS REPEALED]

Rep by the Repealing and Amending Act, 1891 (XII of 1891)

THE SECOND SCHEDULE

SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES

(See section 15)

- (1) A suit concerning an act or order purporting to be done or made by the Governor General in Council or a Local Government, or by the Governor General or a Governor, or by a Member of the Council of the Governor General or of the

¹ See now the First Schedule, Order XXI, rule 6, of the Code of Civil Procedure, 1908 (Act 5 of 1908)

² See now the Code of Civil Procedure, 1908 (Act 5 of 1908)

(The Second Schedule)

Governor of Madras ¹[Bombay or Fort William in Bengal], in his official capacity or concerning an act purporting to be done by any person by order of the Governor General in Council or a Local Government,

- (2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office,
- (3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity or by a Court of Words, or by an officer of a Court of Words in the execution of his office,
- (4) a suit for the possession of immovable property or for the recovery of an interest in such property,
- (5) a suit for the partition of immovable property,
- (6) a suit by a mortgagee of immovable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immovable property for the redemption of the mortgage,
- (7) a suit for the assessment enhancement abatement or apportionment of the rent of immovable property,
- (8) a suit for the recovery of rent other than house rent unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto,
- (9) a suit concerning the liability of land to be assessed to land revenue
- (10) a suit to restrain waste
- (11) a suit for the determination or enforcement of any other right to or interest in immovable property
- (12) a suit for the possession of an hereditary office or of an interest in such an office including a suit to establish an exclusive periodically recurring right to discharge the functions of an office
- (13) a suit to enforce payment of the allowance or fees respectively called *mālikāna* and *īkāl* or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immovable property or in an hereditary office or in a shrine or other religious institution

¹ These words were substituted for the words "or Bombay" by Sch. I of the Repealing and Amending Act 1914 (10 of 1914)

(The Second Schedule)

- (14) a suit to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1870, the whole or any part of the compensation,
- (15) a suit for the specific performance or rescission of a contract;
- (16) a suit for the rectification or cancellation of an instrument,
- (17) a suit to obtain an injunction,
- (18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust and a suit by a co trustee to enforce against the estate of a deceased trustee a claim for contribution
- (19) a suit for a declaratory decree not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure,
- (20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure
- (21) a suit to set aside an attachment by a Court or a revenue authority or a sale mortgage lease or other transfer by a Court or a revenue authority or by a guardian
- (22) a suit for property which the plaintiff has conveyed while insane
- (23) a suit to alter or set aside a decision decree or order of a Court or of a person acting in a judicial capacity,
- (24) a suit to contest an award,
- (25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India,
- (26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure,
- (27) a suit under the Indian Succession Act 1865 section 320 or section 321, or under the Probate and Administration Act, 1881 section 139 or section 140 to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets
- (28) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate,

¹ See now the Land Acquisition Act 1894 (1 of 1894)

² See now the First Schedule Order XXI rules 63 and 100 respectively of the Code of Civil Procedure 1908 (Act 5 of 1908)

³ See now s 73 *ibid*

(The Second Schedule)

(29) a suit—

(a) for a dissolution of partnership or for the winding up of the business of a partnership after its dissolution,

(b) for an account of partnership transactions, or

(c) for a balance of partnership account, unless the balance has been struck by the parties or their agents,

(30) a suit for an account of property and for its due administration under decree,

(31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied to recover surplus collections received by the mortgagee and a suit for the profits on immovable property belonging to the plaintiff which have been wrongfully received by the defendant,

(32) a suit for a general average loss or for salvage,

(33) a suit for compensation in respect of collision between ships,

(34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy

(35) a suit for compensation—

(a) for loss occasioned by the death of a person caused by actionable wrong,

(b) for wrongful arrest, restraint or confinement,

(c) for malicious prosecution,

(d) for libel,

(e) for slander,

(f) for adultery or seduction,

(g) for breach of contract of betrothal or promise of marriage,

(h) for inducing a person to break a contract made with the plaintiff,

(i) for obstruction of an easement or diversion of a water-course

¹[(ii) for an act which is or, save for the provisions of Chapter IV of the Indian Penal Code, would be an offence punishable under Chapter XVII of the said Code,]²[(j) for illegal improper or excessive distress attachment or search or for trespass committed in or damage caused by the illegal or improper execution of any distress search or legal process]¹ This item was inserted by s. 2 (1) of the Provincial Small Cause Courts (Amendment) Act, 1914 (6 of 1914)² This item was substituted by s. 2 (2), *ibid.*

*Provincial Small Cause Courts [1887: Act IX
(The Second Schedule)*

- (h) for improper arrest under ¹Chapter XXXIV of the Code XIV of 188 of Civil Procedure or in respect of the issue of an injunction wrongfully obtained under ¹Chapter XXXV of that Code, or
- (i) for injury to the person in any case not specified in the foregoing sub clauses of this clause,
- (36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower,
- (37) a suit for the restitution of conjugal rights, * * * * for the custody of a minor, or for a divorce,
- (38) a suit relating to maintenance,
- (39) a suit for arrears of land revenue, village expenses or other sums payable to the representative of a village community or to his heir or other successor in title,
- (40) a suit for profits payable by the representative of a village community or by his heir or other successor in title after payment of land revenue village expenses and other sums,
- (41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co sharer, or by a manager of joint property, or a member of an undivided family in respect of a payment made by him on account of the property or family,
- (42) a suit by one of several joint mortgagors of immovable property for contribution in respect of money paid by him for the redemption of the mortgaged property
- (43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue authority on account of an arrear of land revenue or of a demand recoverable as an arrear of land revenue,
- ³[(43A) a suit to recover property obtained by an act which is, or, save for the provisions of Chapter IV of the Indian Penal XLV of 18 Code, would be, an offence punishable under Chapter XVII of the said Code,]
- (44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force

¹ See now the Code of Civil Procedure 1908 (Act 5 of 1908) First Schedule, Orders XXXVIII and XXXIX respectively and s 95

² The words "for the recovery of a wife" were repealed by Sch II of the Repealing and Amending Act 1914 (10 of 1914)

³ This article was added by s 3 of the Provincial Small Cause Courts (Amendment) Act, 1914 (6 of 1914)

THE INDIAN MARINE ACT, 1887.

CONTENTS

CHAPTER I

PRELIMINARY

SECTIONS

- 1 Title and commencement
 - 2 Definitions
 - 3 Procedure on enrolment
 - 4 General power to make rules
-

CHAPTER II

OFFENCES AND PUNISHMENTS

Misconduct in the Presence of the Enemy

- 5 Misconduct of commanding officer in action
- 6 Not pursuing the enemy or not assisting a friend in view
- 7 Delaying or discouraging action or service, or deserting post or sleeping on watch
- 8 Misconduct of subordinate officers and men in action

Communications with the Enemy

- 9 Corresponding, etc., with the enemy
- 10 Improper communication with the enemy

Neglect of Duty

- 11 Neglect of duty

Mutiny

- 12 Mutiny accompanied by violence
- 13 Mutiny not accompanied by violence
- 14 Inciting to mutiny
- 15 Mutinous assembly or uttering seditious words

SECTIONS

- 16 Concealing traitorous, mutinous or seditious practice, design or words
- 17 Striking or using violence to superior officer

Insubordination

- 18 Disobedience or using threatening language to superior officer

Desertion and Absence without Leave

- 19 Desertion
- 20 Inducing any person to desert
- 21 Breaking out of vessel
- 22 Absence without leave

Miscellaneous Offences

- 23 Drunkenness on boardship or on duty
- 24 Cruelty or misconduct by officer
- 25 Suffering vessel to be lost or imperilled
- 26 Unlawful taking of goods on board
- 27 Embezzling public stores
- 28 Arson
- 29 Making false documents
- 30 Malingering or misconduct in hospital
- 31 Creating disturbance on account of complaints
- 32 Offences to the prejudice of good order and discipline not otherwise specified
- 33 Not assisting in arresting offenders
- 34 Contempt of Court
- 35 False evidence

Offences punishable by Ordinary Law

- 36 Offences punishable by ordinary law

Punishments

- 37 Schedule of punishments
- 38 Regulations as to the infliction of punishments
- 39 Scale of punishments
- 40 Limitation of time for trials

CHAPTER III

JURISDICTION AND POWERS

SECTIONS

- 41 Offences cognizable by Criminal Courts and Indian Marine Courts respectively
- 42 Power to pass sentences
- 43 Jurisdiction and powers of commanding officers
- 44 Place of trial
- 45 Jurisdiction over person ceasing to be subject to Act
- 46 Case of person charged with an offence cognizable by a Criminal Court
- 47 Case of person charged with an offence cognizable by an Indian Marine Court or commanding officer
- 48 Conflict of jurisdiction
- 49 Previous conviction or acquittal
- 50 Application of Act XV of 1869 to Indian Marine Courts
- 51 Powers of Governor General in Council in respect of sentences

CHAPTER IV

INDIAN MARINE COURTS

Constitution of the Court

- 52 Power to convene Indian Marine Court
- 53 Composition of Indian Marine Court

Procedure at the Trial

- 54 Place of sitting of Indian Marine Court
- 55 Challenge
- 56 Oaths
- 57 Trial of officers and crew by one Court
- 58 Dissolution of Court on illness of prisoner
- 59 Re trial of prisoner after dissolution of Court
- 60 Clearing of Court
- 61 Decision of Court
- 62 Summoning witnesses
- 63 Summary punishment of certain contempts

Confirmation of Findings and Sentences

SECTIONS

- 64 Submission of proceedings to confirming authority
- 65 Confirmation of findings and sentences
- 66 Confirming authority
- 67 Powers of confirming authority

Evidence

- 68 Law of evidence applicable

Preservation of Proceedings

- 69 Preservation of Indian Marine Court proceedings and grant of copies

Power to make Rules respecting Procedure

- 70 Power to make rules respecting procedure

Supplemental

- 70A Provision in case of wreck loss destruction or capture of Indian Marine vessel

CHAPTER V

SUPPLEMENTAL CRIMINAL PROVISIONS

Procedure of Criminal Courts beyond British India

- 71 Procedure of Criminal Courts beyond British India

Arrest

- 72 Arrest of offenders
- 73 Power of commanding officer

Execution of Sentences of Indian Marine Courts and Commanding Officers

- 74 Commencement of sentences of imprisonment
- 75 Execution of such sentences

Savings

- 76 Saving of authority of ordinary Courts
- 77 Minor punishments

Amendment of Acts

- 78 [*Repealed*]
- 79 Amendment of Chapter VII of the Penal Code (Offences relating to Army and Navy)

CHAPTER VI

PROVISIONS OF CIVIL LAW

Exemption from Process

SECTIONS

80 Exemption from arrest for debt

81 Property which cannot be attached

Property of Deceased Persons and Deserters

82 Disposal of property of deceased persons and deserters

ACT No XIV of 1887¹

[30th June 1887]

An Act for the better administration of Her Majesty's Indian Marine Service

WHEREAS by the ¹Indian Marine Service Act, 1884 it is, among other things, enacted that the Governor General of India in Council shall have power, subject to the provisions contained in the ²Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making Laws and Regulations to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service

Provided that—

- (a) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian Marine Service Act to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits and
- (b) the punishments imposed by any such law for offences shall be similar in character to and shall not be in excess of, the punishments which may at the time of making the law be

¹ For Statement of Objects and Reasons see Gazette of India 1887 Pt V, p. 33, for Report of the Select Committee see *ibid* p. 57, and for Proceedings in Council see *ibid* Pt VI pp. 12, 15 and 46.

² The Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making Laws and Regulations to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service (except the Shan States),

(Chapter I—Preliminary)

imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude,

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to the Indian Marine Service,

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act

It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Indian Marine Act 1887, and

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India appoint in this behalf¹

2 (1) In this Act, unless there is something repugnant in the subject or context,—

(a) "person subject to this Act" means a person who is employed or serves in, or belongs to, ²[the Royal Indian Marine Service (herein referred to as "the Indian Marine Service" or "Her Majesty's Indian Marine Service")], and who, if he is not a gazetted officer has been enrolled in that service in the manner provided by this Act,

¹ The Act came into force on the 15th October, 1887, see Genl R & O, Vol II

² These words were substituted for the words "the Indian Marine Service," by s. 2 of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899)

(Chapter I—Preliminary)

¹ (b) "gazetted officer" means a person who, by virtue of his letter of appointment is holding a position in the Indian Marine Service as—

Commander		Chief Engineer
Lieutenant,		Engineer or
Sub Lieutenant,		Assistant Engineer

¹ (c) "warrant officer" means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Assistant Surgeon		Carpenter
Gunner		Clerk or
	Figure-driver, first class	

¹ (d) "petty officer" means a person who is employed in the Indian Marine Service as

General Mess Steward		Carpenter's Mate second class
Chief Steward of Lascars first class		Carpenter's Chief first class
Chief Steward of Lascars second class		Carpenter's Crew, second class,
Steward of Lascars first class		Plumber
Steward of Lascars second class		General Mess Butler first class
Subkhan		General Mess Butler second class
Tindal of Lascars first class		Cook first class
Tindal of Lascars second class		Cook second class
Engine-driver second class		Ship's Steward
Steward of Stokers first class		Tide-watcher,
Steward of Stokers second class		Kassab first class
Tindal of Stokers first class,		Kassab second class
Tindal of Stokers second class		Pilot
Carpenter's Mate first class		Chart-room Attendant,
		Leadsman, or
		Interpreter

(e) "superior officer," used with reference to an officer of a rank mentioned in clause (b), clause (c) or clause (d) of this sub section, means an officer of a rank mentioned before him in any of those clauses, and, used with reference to any other person subject to this Act means an officer mentioned in any of those clauses

(f) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong such officer, if any, as the Governor General in Council appoints instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons

(g) "enemy" includes a pirate or rebel

(h) "Indian Marine Court" means an Indian Marine Court held under this Act

¹ Present clauses (b) (c) and (d) were substituted for the original clauses by s 3 of the Indian Marine Act (1887) Amendment Act, 1899 (1 of 1899)

(Chapter I—Preliminary Chapter II—Offences and Punishments)

(i) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor General in Council, and

(j) "prescribed" means prescribed by rules made by the Governor General in Council

[(2) The Governor General in Council may, by notification in the Gazette of India, vary any of the definitions in clauses (b), (c) and (d) of sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression "superior officer" in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force]

3 (1) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall then—

(a) cause to be read and explained to him the rules of the service,

(b) administer to him an oath of allegiance and

(c) cause him to sign a roll

(2) The rules, oath and roll shall be in prescribed forms

4 In addition to any other rules which may be made under this Act, the Governor General in Council may, by notification in the Gazette of India, make rules consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement

CHAPTER II

OFFENCES AND PUNISHMENTS

Misconduct in the Presence of the Enemy

5 If a commanding officer—

(i) upon signal of battle or on sight of a vessel of an enemy which it is his duty to engage does not use his utmost exertion to bring his vessel into action, or

1. The words "or on sight of a vessel of an enemy" of the Indian Marine Act (1887) Amend

definitions of "gazetted officer," "warrant" (b), (c) and (d) of sub-section (1) see Genl

1. The words "or on sight of a vessel of an enemy" of the Indian Marine Act (1887) Amend
R & O, Vol II

(Chapter II —Offences and Punishments)

- (ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or
- (iii) when capable of making a successful defence, surrenders his vessel to the enemy, or
- (iv) in time of action improperly withdraws from the fight,

he shall,—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned,
- (b) if he has acted from negligence, or through other default, he dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

6 If any officer subject to this Act—

Not pursuing
the enemy
or not assist-
ing a friend
in view

- (i) forbears to pursue the chase of any enemy beaten or flying or
- (ii) does not relieve and assist a known friend in view to the utmost of his power, or
- (iii) improperly forsakes his station,

he shall—

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned,
- (b) if he has acted from negligence or through other default, he dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

7. If any person subject to this Act—

Delaying or
discouraging
action or ser-
vice or de-
serting post
or sleeping
on watch

- (i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or
- (ii) in the presence or vicinity of the enemy deserts his post or sleeps upon his watch

he shall suffer penal servitude or such other punishment as is hereinafter mentioned

8 If any person subject to this Act, other than a commanding officer, does not, when ordered to prepare for action or during an action, use his utmost exertion to carry the orders of his superior officer into execution, he shall,—

Misconduct
of subordi-
nate officers
and men in
action.

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned,

(Chapter II —Offences and Punishments)

- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

Communications with the Enemy

9 If any person subject to this Act—

- (i) treacherously holds correspondence with or gives intelligence to the enemy, or
- (ii) fails to make known to the proper authorities any information which he may have received from the enemy or
- (iii) relieves the enemy with any supplies

he shall suffer penal servitude or such other punishment as is hereinafter mentioned

10 If any person subject to this Act holds without any treacherous intention any improper communication with the enemy he shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

Neglect of Duty

11 If a person subject to this Act deserts his post or sleeps upon his watch or negligently performs the duty imposed on him he shall suffer imprisonment or such other punishment as is hereinafter mentioned

Mutiny

12 Where a mutiny is accompanied by violence a person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned and

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall —

- (a) if he has acted traitorously suffer death or such other punishment as is hereinafter mentioned,
- (b) if he has acted from cowardice suffer penal servitude or such other punishment as is hereinafter mentioned,
- (c) if he has acted from negligence be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

13 Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this Act shall suffer death or such other punishment as is hereinafter mentioned, and all other persons subject to

(Chapter II —Offences and Punishments)

this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned

14 A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny shall suffer death or such other punishment as is hereinafter mentioned Inciting to mutiny

15 A person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly or utters any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned Mutinous assembly or uttering seditious words

16 A person subject to this Act who wilfully conceals any traitorous or mutinous practice or design, or any seditious or mutinous words spoken against Her Majesty or any practice design or words tending to the hindrance of the service shall suffer penal servitude or such other punishment as is hereinafter mentioned Concealing traitorous mutinous or seditious practice design or words

17 A person subject to this Act who strikes or attempts to strike, or uses or attempts to use any violence against his superior officer being in the execution of his office or otherwise shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned Striking or using violence to superior officer

Insubordination

18 A person subject to this Act who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language or behaves with contempt to his superior officer shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned Disobedience or using threatening language to superior officer

Desertion and Absence without Leave

19 A person subject to this Act who—

- (i) absents himself from his vessel or from the place where his duty requires him to be with the intention of not returning to that vessel or place, or
- (ii) at any time and under any circumstances when absent from his vessel or place of duty does any act which shows that he has an intention of not returning to that vessel or place

Desertion

shall be deemed to have deserted and shall suffer penal servitude or such other punishment as is hereinafter mentioned

and in every such case he shall forfeit all pay bounty salvage prize money and allowances which may have been earned by him and all

(Chapter II — Offences and Punishments)

annuities, pensions, gratuities, medale and decorations which may have been granted to him, and also all clothes and effects which he may have left on board the vessel or at the place from which he has deserted, unless it is otherwise directed by the Court by which he is tried or by the Governor General in Council

20 A person subject to this Act who endeavours to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned

21. A person subject to this Act who, without being guilty of desertion, improperly leaves his vessel or place of duty shall suffer imprisonment or such other punishment as is hereinafter mentioned

22 A person subject to this Act who, without being guilty of desertion or of improperly leaving his vessel or place of duty, is absent without leave shall suffer imprisonment for any period not exceeding ten weeks or such other punishment as the circumstances of the case may require

Miscellaneous Offences

23 A person subject to this Act who is guilty of any drunkenness on board ship or on duty shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

24 An officer subject to this Act who is guilty of cruelty, or of any scandalous or fraudulent conduct or of any other conduct unbecoming the character of an officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

25 A person subject to this Act who designedly or negligently, or by any default, loses strands or hazards, or suffers to be lost, stranded or hazarded, any vessel of the Indian Marine Service shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

26 An officer in command of an Indian Marine vessel who receives on board, or permits to be received on board, the vessel any goods or merchandise whatsoever, other than for the sole use of the vessel, except gold, silver or jewels, and except goods and merchandise, belonging to any merchant or on board any vessel which may be shipwrecked or in imminent danger either on the sea or in some port, creek, harbour or river, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the Government or his superior officer shall be dismissed from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

(Chapter II—Offences and Punishments)

27. A person subject to this Act who wastefully expends, embezzles ^{Embezzling} or fraudulently buys, sells or receives any ammunition, provisions or ^{public stores} other public stores, or knowingly permits any such wasteful expenditure, embezzlement or fraudulent purchases, sale or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned

28. A person subject to this Act who unlawfully sets fire to any dock- ^{Arson} yard, victualling yard, steam factory yard, arsenal, magazine, building or stores or to any ship, boat or other craft or furniture thereunto belonging not being the property of an enemy, shall suffer penal servitude or such other punishment as is hereinafter mentioned

29. A person subject to this Act who knowingly makes or signs a false ^{Making false} muster or record or other official document, or who commands, counsels ^{documents} or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned

30. A person subject to this Act who wilfully does any net or wilfully ^{Malingering} disobeys any order, whether in hospital or elsewhere, with intent to pro- ^{or miscon-} duce or to aggravate any disease, or infirmity or to delay his cure, or who ^{duct in} feigns any disease, infirmity or inability to perform his duty, shall suffer ^{hospital} imprisonment or such other punishment as is hereinafter mentioned

31. A person subject to this Act who has any cause of complaint, ^{Creating dis-} either upon the ground of the unwholesomeness of the victuals or upon ^{urbance on} any other ground, shall quietly make the same known to his commanding ^{account of} officer, and that officer shall inquire into the complaint and shall as for ^{complaints} as he is able, cause the same to be presently remedied or shall report the case to the Director of Marine, and any person subject to this Act who, upon any pretence whatever, attempts to stir up any disturbance on any such ground shall suffer imprisonment or such other punishment as is hereinafter mentioned

32. A person subject to this Act who is guilty of any act, disorder ^{Offences to} or neglect to the prejudice of good order and discipline, not hereinbefore ^{the prejudice} specified, shall be dismissed with disgrace from the Indian Marine Service ^{of good order} or suffer such other punishment as is hereinafter mentioned ^{and discipline} ^{not otherwise} ^{specified}

Provided that, if such act, disorder, or neglect constitutes an offence punishable under the law of British India with imprisonment for a term which may exceed seven years the person guilty thereof shall not be tried under this Act as for an offence punishable under this section

33. A person subject to this Act who does not use his utmost exertion ^{Not assailing} to detect, arrest and bring to punishment all offenders against this Act, ^{in arresting} and does not assist the officers appointed for that purpose, shall suffer ^{offenders.} imprisonment or such other punishment as is hereinafter mentioned

(Chapter II —Offences and Punishments)

34. A person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, or to produce any document in his power or control before such a Court or officer, refuses or neglects to attend to give his evidence upon oath or to produce the document, or behaves with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect and to one month in the case of such contempt

35. A person subject to this Act who when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act intentionally gives false evidence shall suffer imprisonment for a term which may extend to seven years

(Offences punishable by Ordinary Law)

36. If a person subject to this Act is guilty of any criminal offence which if committed in British India would be punishable by the law of British India he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India

Provided that except as authorised by the Indian Marine Service Act, 1884, and by this Act the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy

Punishments

37. (1) The following punishments may be inflicted under this Act —

- (a) death,
- (b) penal servitude
- (c) dismissal with disgrace from the Indian Marine Service,
- (d) imprisonment,
- (e) dismissal from the Indian Marine Service
- (f) loss of seniority as an officer for a specified time or otherwise,
- (g) dismissal from the vessel to which the offender belongs,
- (h) severe reprimand or reprimand,
- (i) disrating a warrant officer or petty officer or any other person below that rank,
- (j) forfeiture of pay, bounty, salvage, prize money and allowances earned by, and of all annuities pensions gratuities, medals and decorations granted to, the offender, or of any one or

(Chapter II — Offences and Punishments)

more of the above particulars also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs

(2) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale

38 The following regulations shall apply to the infliction of punishments — Pegulations
as to the in-
fliction of
punishments

(1) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years

(2) In the case of persons other than Europeans or Americans transportation for life or for any term not less than four years or imprisonment for any term not exceeding fourteen years shall be substituted for penal servitude

(3) The punishment of penal servitude or of transportation or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act shall in all cases involve dismissal from the Indian Marine Service with or without disgrace as the prescribed authority may direct

(4) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty salvage prize money and allowances earned by and of all annuities, pensions gratuities medals and decorations granted to the offender and an incapacity to serve the Government again in any capacity

(5) A sentence of dismissal with disgrace may in any case be accompanied by a sentence of imprisonment

(6) Except as otherwise provided by this Act a sentence of imprisonment passed otherwise than under clause (2) of this section may extend to two years

(7) A sentence of imprisonment may be accompanied by a direction that the imprisonment shall be rigorous for the whole or any part of the term thereof

(8) When a sentence of imprisonment is passed on a warrant officer or petty officer or any other person below that rank, it may be accompanied by a direction disgracing the officer or person

(9) A sentence of imprisonment shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment

39 Subject to the foregoing regulations and the other provisions of this Act where any punishment is specified by this Act as the penalty Scale of
punishments for an offence and it is further declared that another punishment may be awarded in respect of the same offence the expression "other punish

(Chapter II —Offences and Punishments Chapter III —Jurisdiction and Powers)

ment " shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 37

40. No person, unless he is an offender who has avoided arrest or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless the trial takes place within three years from the commission of the offence or within one year after the return of the offender to British India when he has been absent from British India during that period of three years

CHAPTER III

JURISDICTION AND POWERS

41. Subject to the provisions of this Act, and, as respects Criminal Courts, subject to the law relating to criminal procedure for the time being applicable to those Courts, Criminal Courts and Indian Marine Courts or both shall have jurisdiction in respect of the offences punishable under this Act as specified in the following table —

Section of this Act	Marginal note	Courts having jurisdiction
Section 5	Misconduct of commanding officer in action	Criminal Courts and Indian Marine Courts
6	Not pursuing the enemy or not assisting a friend in view	
7	Delaying or discouraging action or service or deserting post or sleeping on watch	
8	Misconduct of subordinate officers and men in action	
9	Corresponding etc., with the enemy	
10	Improper communication with the enemy	Indian Marine Courts
11	Neglect of duty	
12	Mutiny accompanied by violence	Criminal Courts and Indian Marine Courts
13	Mutiny not accompanied by violence	
14	Factious mutiny	
15	Mutinous assembly or uttering seditious words	
16	Committing treasonable mutinous or seditious practice design or words	

¹ See now the Code of Criminal Procedure, 1898 (Act 5 of 1898)

(Chapter III—Jurisdiction and Powers)

Section of this Act.	Marginal note	Courts having jurisdiction on
Section 17	Striking or using violence to superior officer	} Indian Marine Courts
" 18	Disobedience or using threatening language to superior officer	
" 19	Desertion	} Criminal Courts and Indian Marine Courts
" 20	Inducing any person to desert	
" 21	Breaking out of vessel	} Indian Marine Courts
" 22	Absence without leave	
" 23	Drunkenness on board ship or on duty	
" 24	Cruelty or misconduct by officer	
" 25	Suffering vessel to be lost or imperilled	
" 26	Unlawful taking of goods on board	
" 27	Embezzling public stores	} Criminal Courts and Indian Marine Courts
" 28	Arson	
" 29	Making false documents	} Indian Marine Courts
" 30	Malingering or misconduct in hospital	
" 31	Creating disturbance on account of complaints	} Indian Marine Courts
" 32	Offences to the prejudice of good order and discipline not otherwise specified	
" 33	Not assisting in arresting offenders	} Criminal Courts and Indian Marine Courts
" 34	Contempt of Court	
" 35	False evidence	} Criminal Courts
" 36	Offences punishable by ordinary law	

42. Subject as aforesaid—

- (a) a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment, and
- (b) an Indian Marine Court may pass any sentence authorised by this Act except a sentence of death, penal servitude or transportation or of imprisonment for a term exceeding two years

Power to pass sentences

43 (1) An offence triable by an Indian Marine Court and committed by a person other than a gazetted officer may, under such regulations as the Governor General in Council may make, be summarily tried and punished by the commanding officer of the offender

Jurisdiction and powers of commanding officers.

(Chapter III—Jurisdiction and Powers)

(2) Subject to the provisions of this Act and to such restrictions as the Governor General in Council may impose, a commanding officer may pass a sentence of imprisonment for a period not exceeding three months on an offender below the position of petty officer, and may disrate any warrant officer or petty officer or any other person below that rank.

44. A person subject to this Act who is accused of an offence to which this Act applies may be tried and punished for the offence by a Criminal Court in any place where he may happen to be in the same manner as if the offence had been committed in that place.

45. Where such an offence has been committed by any person while subject to this Act he may be taken into custody and be tried and punished for the offence although he has ceased to be subject to this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

46. When a person subject to this Act is accused of an offence in respect of which a Criminal Court has jurisdiction over him under this Act or otherwise the following rules shall apply, namely—

(a) any person subject to this Act shall on application made to him by the Court assist in arresting and securing the accused and the commanding officer shall if so required by the Court deliver the accused to the Court.

(b) when no requisition is made under clause (a) the commanding officer may if he thinks fit place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

47. When a person subject to this Act is accused of an offence in respect of which an Indian Marine Court or a commanding officer has jurisdiction under this Act and that person is within the jurisdiction of any civil political or police officer that officer shall, upon an application to that effect made to him by the commanding officer of that person or any prescribed authority, aid in the arrest of the person and deliver him when arrested into such custody as the commanding officer or the prescribed authority may require.

48. When an Indian Marine Court or commanding officer under this Act and a Criminal Court under this Act or otherwise have concurrent jurisdiction in respect of an offence and there is a difference of opinion as to the tribunal before which the person accused of the offence should be proceeded against either tribunal shall on the requisition of the other, stay proceedings pending a reference to the Governor General in Council, whose order as to the tribunal before which the proceedings are to be had shall be final.

(Chapter III—Jurisdiction and Powers Chapter IV—Indian
Marine Courts)

49 An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or an Indian Marine Court or, in exercise of the powers conferred by section 43, by his commanding officer

Previous conviction or acquittal.

50 Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed authority may make an order in the form in Schedule B to the 'Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder shall so far as they can be made applicable, apply in the case of any order made under this section

Application of Act XV of 1869 to Indian Marine Courts

51 The Governor General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court or a commanding officer under this Act or substitute a punishment inferior in degree for the punishment involved in any such sentence or remit the whole or any portion of the punishment involved in any such sentence or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted and any sentence so modified shall subject to the provisions of this Act be valid and shall be carried into execution as if it had been originally passed with such modification by the Court or officer but so that the punishment involved in any sentence be not increased by any such modification

Powers of Governor General in Council in respect of sentences.

CHAPTER IV

INDIAN MARINE COURTS

Constitution of the Court

52 (1) The following authorities shall have power to convene Indian Marine Courts namely —

Power to convene Indian Marine Court

- (a) the Governor General in Council
- (b) the Director of Marine
- (c) an officer empowered in that behalf by warrant of the Governor General in Council

Provided that an Indian Marine Court assembled for the trial of a gazetted officer shall be convened only [by the Governor General in Council or by the Director of Marine]

See now the Prisoners Act 1900 (3 of 1900) by which this has been repealed

¹ These words were substituted for the words "by or with the previous sanction of the Governor General in Council" by section 2 of the Indian Marine (Amendment) Act 1901 (10 of 1901)

(Chapter IV — Indian Marine Courts)

(2) When a ship or ships is or are detached on separate service, and when immediate example is necessary, and without detriment to the public service reference cannot be made to superior authority, the officer in command of the ship or ships may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer

53 ¹[(1) An Indian Marine Court shall consist of a president and not less than two, or more than four, other members, such members to be of rank not inferior to that of Lieutenant]

¹[(2) The president of an Indian Marine Court for the trial of a Commander shall be of rank not below that of Commander, and two at least of the other officers composing the Court shall be of rank not below that of Commander]

¹[(3) Except in the case of an Indian Marine Court convened under section 52, sub section (2), the president of an Indian Marine Court for the trial of any person below the grade of Commander shall be of rank not below that of Commander]

(4) A person acting as prosecutor shall not be a member of the Court

(5) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub section (1)

(6) The president and the other members of every Indian Marine Court shall be named by the authority convening the same

(7) When an Indian Marine Court after the commencement of the trial, is reduced to a less number than three members it shall be deemed to be dissolved

(8) In the case of the death or unavoidable absence of the president of an Indian Marine Court, the next senior member of the Court, if qualified under sub section (2) or sub section (3) as the case may be, shall take the place of the president without special appointment as such

(9) If such next senior member is not qualified as aforesaid the Court shall be deemed to be dissolved

²[(10) The seniority and precedence of officers serving on the same Indian Marine Court shall be governed by their seniority as shown in the latest Indian Marine List. The fact of any officer bearing a superior title by virtue of an appointment which he may for the time being be holding, shall not give him seniority or precedence over any officer serving with him on the Indian Marine Court who may be senior to him on the Indian Marine List]

¹ Sub-sections (1) (2) and (3) were substituted for the original sub sections by s 4 (1) of the Indian Marine Act (1897) Amendment Act 1899 (1 of 1899)

² Sub-section (10) was added by s 4 (2) ibid

(Chapter IV —Indian Marine Courts)

¹[(11) The authority convening an Indian Marine Court shall, when practicable, appoint a Judge Advocate in every trial, who shall be, if possible an officer of the Judge Advocate General's Department]

¹[(12) The authority convening an Indian Marine Court shall also appoint a person as Provost Marshall, who shall be responsible for the arrest and safe custody of the prisoner or prisoners as directed, until the decision of the confirming authority is made known and communicated to him by the convening authority]

Procedure at the Trial

54 An Indian Marine Court shall be held on board one of Her Majesty's Indian Marine vessels or on land

Place of sitting of Indian Marine Court.
Challenge.

55 As soon as an Indian Marine Court is assembled the names of the members of the Court shall be read over to the prisoner, who shall be asked if he objects to being tried by any of them if the prisoner objects to any member, the objection shall be decided by the Court if the objection is allowed, the place of the member objected to shall be filled up by the officer next in seniority available for the duty who is not on the Court, subject to the regulations contained in section 53, sub sections (2), (3), (4) and (5)

Provided that where the Court is composed as in the proviso to section 53 sub section (1) and no officer qualified under that section is available to take the place of the officer objected to the Court shall, after recording the objection proceed with the trial in like manner as if the objection had been disallowed

56 (1) Before an Indian Marine Court proceeds to try a prisoner an oath shall be made by every member of the Court in the prescribed manner

Oaths

(2) An oath shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter before an Indian Marine Court

57 When no specific charge is made against any person subject to this Act for or in respect or in consequence of the wreck loss destruction or capture of any vessel in the Indian Marine Service all the officers and crew of the vessel may if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court and any of them when upon his trial may be called upon to give evidence on oath touching any of the matters then under inquiry but no person shall be obliged to give any evidence which may tend to criminate himself

Trial of officers and crew by one Court.

(Chapter IV — Indian Marine Courts)

58 (1) If by reason of the illness of the prisoner before the finding it is impossible to continue the trial, an Indian Marine Court shall be deemed to be dissolved

Provided that, where more prisoners than one are being tried and the trial of only one or some of them is rendered impossible by illness, the Court may, if it sees fit, continue the trial of the other or others, and, where the Court so continues the trial, it shall be deemed to have been dissolved only with respect to the prisoner or prisoners whose illness caused the continuance of his or their trial to be impossible

(2) When the illness with which a prisoner is affected is insanity, the Court shall proceed, as nearly as circumstances admit in the same manner as a Magistrate or Court may proceed under section 466 of the 'Code of Criminal Procedure 1882' when an accused person is found to be of unsound mind and incapable of making his defence

59 Subject to the provisions of the last foregoing section, where an Indian Marine Court is dissolved under that section or section 53, sub-section (7) or sub-section (9) the proceedings are null and void and the prisoner may be tried before another Indian Marine Court on the same charge or charges

60 The president may on any deliberation among the members cause an Indian Marine Court to be cleared of all other persons

61 Every decision of an Indian Marine Court shall be passed by a majority of votes and where there is an equality of votes the president shall have a second or casting vote

Provided that if there is an equality of votes on the finding the decision shall be in favour of the prisoner

62 (1) Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner

(2) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides and the officer shall give effect to the summons as if the witness were required to attend in his Court

63 When a person subject to this Act who being duly summoned or ordered to attend as a witness before an Indian Marine Court, behaves with contempt to the Court the Court, if it thinks fit instead of reserving him for trial by another Court for an offence under section 34 may by order under the hand of the president, sentence him to imprisonment for a term which may extend to one month

(Chapter IV—Indian Marine Courts)

Confirmation of Findings and Sentences

64 (1) The president of an Indian Marine Court shall date and sign the proceedings of the Court and submit them, as soon as possible after their completion, to the confirming authority

Submission of proceedings to confirming authority

(2) If the Court has made a recommendation to mercy, the recommendation shall be recorded and submitted to the confirming authority as part of the proceedings

65 A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed by the confirming authority

Confirmation of findings and sentences

66 (1) The confirming authority shall ordinarily be the authority convening the Court

Confirming authority

(2) But if the Court was convened for the trial of a gazetted officer * * * or if in the case of a Court convened for the trial of any other person subject to this Act, the Governor General in Council is of opinion that the authority convening the Court cannot act, or cannot conveniently act, as the confirming authority, the confirming authority shall be the Governor General in Council

(3) The fact that the Governor General in Council has acted as the confirming authority with respect to any finding or sentence shall be conclusive proof that he was the proper confirming authority with respect thereto

67 (1) The confirming authority may send back the finding and sentence of an Indian Marine Court or either of them for revision and, on the finding or sentence being sent back the Court may if so directed by the confirming authority receive additional evidence

Powers of confirming authority

(2) Where the finding only is sent back for revision the Court may revise the sentence also

(3) The confirming authority may in confirming the sentence of an Indian Marine Court—

(a) reduce the punishment thereby awarded or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court

(b) suspend for such time as seems expedient the execution of the sentence

(c) if the finding or sentence is informally expressed vary the form thereof or if the sentence is invalid substitute a valid sentence therefor

(Chapter IV —Indian Marine Courts)

(4) Notwithstanding any error, omission or irregularity in any proceeding of an Indian Marine Court, the confirming authority may confirm the finding or sentence of the Court or either of them, unless the error, omission or irregularity has in the opinion of that authority, occasioned a failure of justice

Evidence

68 The Indian Evidence Act, 1872, subject to such modifications therein as the Governor General in Council may, by notification in the Gazette of India direct shall apply to all proceedings before Indian Marine Courts

Preservation of Proceedings

69 (1) The proceedings of all Indian Marine Courts shall be preserved in the office of the Director of Marine for not less than seven years in the case of the trial of a gazetted officer or than three years in the case of any other person

(2) Any person tried by an Indian Marine Court shall be entitled, on demand at any time after the confirmation of the finding and sentence of the Court and before the proceedings are destroyed to obtain from the officer or person having the custody of the proceedings a copy thereof, upon payment for the same at the prescribed rate

Power to make Rules respecting Procedure

70 (1) The Governor General in Council may make rules¹ to regulate the procedure of Indian Marine Courts and for the purpose of carrying this Act into execution so far as relates to the investigation trial and punishment of offences triable by those Courts

(2) The Governor General in Council may by any such rule confer on an Indian Marine Court any power (other than a power to try an accused person or pass a sentence) conferred on a Court of original criminal jurisdiction by the ² Code of Criminal Procedure 1882

³[*Supplemental*]

³[70A When an Indian Marine vessel is wrecked lost, destroyed, or captured by the enemy, it shall, for the purposes of this Act be deemed

¹ For rules made under ss 68 and 70 in conjunction with s 4 to regulate the proceedings of Indian Marine Courts and certain other matters see Genl R & O, Vol II

² See now the Code of Criminal Procedure 1893 (Act 5 of 1893)

³ This heading and s 70A were inserted by s 5 of the Indian Marine Act (1837) Amendment Act 1893 (1 of 1893)

(Chapter IV —Indian Marine Courts Chapter V —Supplemental Criminal Provisions)

to remain an Indian Marine vessel until her crew are regularly removed into some other Indian Marine vessel or until a Court of Inquiry has been held into the cause of the wreck, loss, destruction or capture thereof]

destruction or capture of Indian Marine vessel

CHAPTER V

SUPPLEMENTAL CRIMINAL PROVISIONS

Procedure of Criminal Courts beyond British India

71 The law relating to criminal procedure for the time being in force in British India shall, subject to such modifications as the Governor General in Council, by notification in the Gazette of India directs, apply to all proceedings under this Act in Criminal Courts beyond the limits of British India

Procedure of Criminal Courts beyond British India

Arrest

72 The following rules shall apply to persons subject to this Act when charged with offences under this Act —

Arrest of offenders

(1) Every such person shall be placed in custody, but no person shall be detained in custody longer than is necessary for the purposes of justice

(2) "Custody" means, according to the usage of the service, the putting of the offender under arrest or the putting him in confinement

(3) Any officer, or if more officers than one are present the senior of them, may order into custody any other person of inferior rank subject to this Act

(4) The charge made against every person taken into custody shall, without unnecessary delay, be investigated by his commanding officer or other prescribed authority, and as soon as may be proceedings shall be taken for punishing the offender or discharging him from custody

73 A commanding officer shall upon an investigation being made into a charge against a person subject to this Act and under his command of having committed an offence under this Act dismiss the charge if he thinks that it ought not to be proceeded with but when he thinks the charge ought to be proceeded with he shall subject to the provisions of this Act, take steps without delay for bringing the offender to trial

Power of commanding officer

Execution of Sentences of Indian Marine Courts and Commanding Officers

74 (1) Every term of imprisonment awarded in pursuance of the sentence of an Indian Marine Court or of a commanding officer exercising jurisdiction under this Act shall except as provided in sub-section (2)

Commencement of sentences of imprisonment

¹ See now the Code of Criminal Procedure 1893 (Act 5 of 1893)

(Chapter V —Supplemental Criminal Provisions)

be deemed to commence on the day on which the original sentence was signed by the president of the Court or pronounced by the commanding officer .

(2) When a person already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to imprisonment, that imprisonment shall commence at the expiration of the penal servitude, transportation or imprisonment to which he has previously been sentenced

Provided that when, under this sub section, at the expiration of a term of imprisonment to which a person has been sentenced by an Indian Marine Court, another term of imprisonment to which he has been similarly sentenced commences, and the aggregate term of imprisonment to which he would be thus liable would, as reckoned from the commencement of such imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted

75 (1) A person sentenced by an Indian Marine Court, or by a commanding officer exercising jurisdiction under this Act, to imprisonment shall be detained in the prescribed custody until he is transferred to a prison

(2) A person sentenced as aforesaid shall, as soon as may be practicable be transferred to a prison in British India, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed authority to the officer in charge of that prison

(3) A person transferred to a prison under sub section (2) shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court

Provided that—

(a) when he is a person sentenced to imprisonment by his commanding officer the commanding officer, or the Director of Marine, may at any time by order in writing direct that he be discharged,

(b) the Director of Marine or any commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise and that he shall again be transferred to the prison

Savings

76 Except as expressly provided by this Act nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction

(Chapter V—Supplemental Criminal Provisions Chapter VI—Provisions of Civil Law)

77. Nothing in this Act shall affect any rules, regulations, conditions or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—

- (a) to dismissal, loss of seniority, disrating, forfeiture or stoppages, or
- (b) to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline

Amendment of Acts

78. [Amendment of Act X of 1882, section 54 (Arrest of Deserters)]
Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898)

79. After section 138 of the Indian Penal Code the following section shall be inserted, namely

Amendment of Chapter VII of the Penal Code (Offences relating to Army and Navy)

“138A. The foregoing sections of this Chapter shall apply as if Her Majesty's Indian Marine Service were comprised in the Navy of the Queen.”

Application of foregoing sections to the Indian Marine Service

CHAPTER VI

PROVISIONS OF CIVIL LAW

Exemption from Process

80. (1) A person below the position of gazetted officer shall not, while subject to this Act be liable to be taken out of the Indian Marine Service by any process, execution or order of any Court of law or otherwise, or be compelled to appear in person before any Court of law except in respect of the following matters, or one of them, that is to say —

Exemption from arrest for debt

- (a) on account of a criminal charge or conviction,
- (b) on account of a decree for money, when the amount exceeds three hundred rupees over and above the costs of the suit

(2) The Judge of any such Court may examine into any complaint made by any such person, or his superior officer, of the arrest of the person contrary to the provisions of this section, and may by order under his hand discharge the person, and award reasonable costs to the complainant, who may recover the costs as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(Chapter VI — *Provisions of Civil Laws*)

81 The clothes, equipment or arms of a person subject to this Act shall not be seized, nor shall the pay and allowances or any part thereof of any such person below the position of a gazetted officer be attached, in execution of any decree or order enforceable against him by any Court of Civil Judicature

Property of Deceased Persons and Deserters

82 The following rules are enacted respecting the disposal of the property of any person subject to this Act who dies or deserts —

(1) The commanding officer shall secure all the moveable property which is on the spot and cause an inventory thereof to be made

(2) In the case of a deceased person if his representative is on the spot and gives security for the payment of the ship and service debts of the deceased the commanding officer shall deliver over the property to that representative

(3) In the case of a deceased person if the property is not dealt with under clause (2), and in the case of every deserter, the commanding officer shall cause the property to be sold by public auction, and from the proceeds of the sale shall pay the ship and service debts and, in the case of a deceased person the expenses of his funeral ceremonies

(4) The surplus if any shall in the case of a deceased person be paid to his representative

(5) In the event of no claim for the surplus of a deceased person's estate being established within twelve months after his death, and immediately after the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be remitted to the Director of Marine

(6) Property deliverable or money payable to the representative of a deceased person under this section may if the value or amount thereof does not exceed one thousand rupees and the Director of Marine or the prescribed authority thinks fit be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title, and such delivery or payment shall be a full discharge to the person ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money, not nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor of a deceased person against a person to whom any such delivery or payment has been made

(7) A person shall be deemed to have deserted within the meaning of this section who has been convicted of desertion, or who has been absent without leave for a period of thirty days from the Indian Marine Service and has not subsequently surrendered or been arrested

ACT No II OF 1888 ¹

[10th February, 1888]

An Act to provide for the levy of a Customs-duty on Petroleum.

WHEREAS it is expedient to provide for the levy of a ²customs duty on petroleum; It is hereby enacted as follows:—

1. [Addition to Schedule II, Act XI, 1882] *Rep by the Indian Tariff Act, 1894 (VIII of 1894), Sch I*

1878 And whereas the proviso to section 37 of the Sea Customs Act, 1878, do not apply to goods to which a rate of duty is not already applicable; It is further enacted as follows:—

2. The rate of duty applicable to petroleum of which the bill-of-entry is delivered, within the meaning of section 37 of the Sea Customs Act, 1878, to the Customs-Collector under section 86 of that Act after the passing of this Act, shall be the rate of duty specified in the ³second schedule to the ⁴Indian Tariff Act, 1882, as amended by this Act. Commencement of effect of the addition to the schedule,

ACT No III OF 1888 ¹

[17th February, 1888]

An Act to amend the Law relating to the Regulation of Police

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of police-officers to

¹ Short title "The Petroleum (Customs duty) Act, 1888," see the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons, see Gazette of India, 1888, Pt V, p 2, for Report of the Select Committee, see *ibid*, Pt IV, p 6, and for Debates in Council, see *ibid*, Pt VI, pp 6, 21 and 35

² For duty on petroleum, see now Art 40, Sch II, of the Indian Tariff Act, 1894 (8 of 1894)

³ See now the Indian Tariff Act, 1894 (8 of 1894), Sch II (40)

⁴ For Statement of Objects and Reasons, see Gazette of India, 1888, Pt V p 130, for Report of the Select Committee, see *ibid*, 1888, Pt IV, p 8, and for Proceedings in Council, see *ibid*, 1887, Pt VI, p 100, and *ibid*, 1888, pp 37 and 40.

The Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), Bal Code

It has been declared, by notification under s 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Districts of Hazaribagh, Lohardaga (now called the Ranchi District, see Calcutta Gazette, 1899, Pt I, p 44), Manbhum and Palamau, and in Pargana Dhalbhum and the Kolhan in the Singhbhum District, see Gazette of India, 1895, Pt I, p 130

It had been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur Code. It had been previously extended there by notification under s 5 of Act 14 of 1874, see Gazette of India 1892, Pt. I, p. 94

the presidency province or place of the police establishment of which they are members, It is hereby enacted as follows —

1 (1) This Act may be called the Police Act, 1888

(2) It extends to the whole of British India, ¹

1* * * *

2 (1) Notwithstanding anything in ²Act XXIV of 1859 (*an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St George*), Act V of 1861 (*an Act for the Regulation of Police*) ³[or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council], or any Act relating to the police in any presidency town, the Governor General in Council may, by notification in the Gazette of India, create a general police district embracing parts of two or more presidencies, provinces or places, and direct the enrolment under Act V of 1861 of a police force for service therein ⁴

(2) With respect to such a district and the police force enrolled therefor, the functions of the Local Government under Act V of 1861, the ⁵Code of Criminal Procedure, 1832, and any other enactment for the time being in force relating to police shall, subject to any orders which the Governor General in Council may make in this behalf, be discharged by the Governor General in Council, or by such Local Government or other authority as the Governor General in Council may ⁶appoint, and the functions of the Inspector-General of Police, Deputy Inspectors General, Assistant Inspectors General, District Superintendents of Police and Assistant District Superintendents under Act V of 1861 and any other enactment for the time being in force shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force

(3) Subject to any orders which the Governor General in Council may make in this behalf members of a police force enrolled for service in a general police district created under sub-section (1) shall have within every part of any presidency, province or place of which any part is included in the district the powers duties privileges and liabilities which as police officers appointed under Act V of 1861, they have within the district

¹ The word 'and' at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

² Mad Code

³ These words were substituted for the words "the Bombay District Police Act, 1867, by the second schedule to the Repealing and Amending Act, 1891 (12 of 1891) See now the Bombay District Police Act 1890 (Bomb Act IV of 1890) Bom Code

⁴ For notifications issued under these powers see Genl R & O, Vol II

⁵ See now the Code of Criminal Procedure 1893 (Act 5 of 1893)

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub section (2) has generally or specially empowered to act under this sub section may subject to any orders which the Governor General in Council may make in this behalf exercise in any part of the local area in which he has the powers of a police officer under sub section (3) any of the powers which an officer in charge of a police station has in that part and when so exercising any such power shall subject as aforesaid be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station.

(5) Subject to any orders which the Governor General in Council may make in this behalf, a part of a presidency province or place included in a general police district under sub section (1) shall not by reason of being included therein cease for the purposes of any enactment relating to police to be part of the presidency province or place of which it forms part.

(6) For the purposes of this section and subject to the provisions thereof Act V of 1861 shall notwithstanding anything in section 46 of that Act be deemed to take effect throughout the whole of British India.

3 Notwithstanding anything in any of the Acts mentioned or referred to in the last foregoing section but subject to any orders which the Governor General in Council may make in this behalf, a member of the police establishment of any presidency, province or place may discharge the functions of a police officer in any part of British India beyond the limits of the presidency, province or place and shall while so discharging such functions be deemed to be a member of the police establishment of that part and be vested with the powers functions and privileges and be subject to the liabilities of a police officer belonging to that establishment.

Employment of police-officers beyond the prescribed provinces or places to which they belong

ACT No IV OF 1888¹

[2nd March 1888]

An Act to regulate Her Majesty's Indian Reserve Forces

WHEREAS it is expedient to provide for the government discipline and regulation of Her Majesty's Indian Reserve Forces It is hereby enacted as follows —

1 (1) This Act may be called the Indian Reserve Forces Act 1888, and

Title and commencement.

¹ For Statement of Objects and Reasons see Gazette of India 1888 Pt V, p 22 and for Proceedings in Council, see *ibid* 1888 pp 45 and 55.

This Act has been declared in force in British Baluchistan by the Baluchistan Laws Regulation 1913 (No of 1913) Bal Code

the presidency, province or place of the police establishment of which they are members, It is hereby enacted as follows —

1 (1) This Act may be called the Police Act, 1888

(2) It extends to the whole of British India ^{1*}

1* * * *

2 (1) Notwithstanding anything in ²Act XXIV of 1859 (*an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St George*), Act V of 1861 (*an Act for the Regulation of Police*) ³[or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council], or any Act relating to the police in any presidency town, the Governor General in Council may by notification in the Gazette of India, create a general police district embracing parts of two or more presidencies, provinces or places and direct the enrolment under Act V of 1861 of a police force for service therein ⁴

(2) With respect to such a district and the police force enrolled therefor, the functions of the Local Government under Act V of 1861, the ⁵Code of Criminal Procedure 1882, and any other enactment for the time being in force relating to police shall be subject to any orders which the Governor General in Council may make in this behalf, be discharged by the Governor General in Council or by such Local Government or other authority as the Governor General in Council may ⁶appoint, and the functions of the Inspector General of Police, Deputy Inspectors General Assistant Inspectors General District Superintendents of Police and Assistant District Superintendents under Act V of 1861 and any other enactment for the time being in force shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force

(3) Subject to any orders which the Governor General in Council may make in this behalf members of a police force enrolled for service in a general police district created under sub-section (1) shall have within every part of any presidency, province or place of which any part is included in the district the powers duties privileges and liabilities which as police officers appointed under Act V of 1861 they have within the district

¹ The word "and" at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

² Mad Code

³ These words were substituted for the words "the Bombay District Police Act, 1867," by the second schedule to the Repealing and Amending Act 1891 (12 of 1891). See now the Bombay District Police Act 1890 (Bom Act IV of 1890) Bom Code

⁴ For notifications issued under the powers see Genl R & O, Vol II

⁵ See now the Code of Criminal Procedure 1903 (Act 5 of 1898)

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

7. Nothing in this Act or in any rule or order thereunder shall make any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act.

**Effect of Act
on persons
already in
the Reserves.**

ACT No. VIII OF 1888.¹

[5th September, 1888.]

An Act to remove doubts as to the legality of the levy of certain
Tolls.

WHEREAS doubts have been raised as to the operation of the Acts of the Governor General in Council, No. VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*) and No. XV of 1864 (*an Act to amend Act VIII of 1851*); It is hereby enacted as follows:—

1. Acts VIII of 1851 and XV of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and from the twenty-first day of August, 1857, and the twenty-fourth day of March, 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab.

Enforcement
of Acts VIII
of 1851 and
XV of 1864
in the
Punjab.

2. (I) In any part of British India beyond the limits of the territories administered by the Governor of Fort St. George in Council, and the

Operation of the Act in the Punjab

¹ Short title, "The Indian Tolls Act, 1858," see the Indian Short Titles Act, 1897 (14 of 1897).

For E. 1888, Pt. V, p. 43,
and for

by the B
It ha
Districts
Gazette of India, 1900, Pt. I, p. 410.

Lieutenant-Governors of Bengal and the North-Western Provinces, to or in which Acts VIII of 1861 and XV of 1864 may be or have been extended¹, or may be or have been declared to be in force, under the latter of those Acts or by this Act or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act, to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII of 1851

(2) "Presidency", where that word occurs in section 8 of Act VIII of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government

3 All tolls levied, or purporting to have been levied, under Acts VIII of 1851 and XV of 1864, or either of those Acts, before the passing of this Act, shall be deemed to have been lawfully levied

4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of July, 1888

5 In section 2 of Act VIII of 1851 " * * * the word "and" shall be inserted between the words "the Lieutenant-Governor of the North Western Provinces of Bengal" and the words "the Governor of the Presidency of Fort St George in Council"

ACT No VI of 1888²

[5th October, 1888]

An Act to make an addition to the Indian Telegraph Act, 1885

WHEREAS it is expedient to make an addition to the Indian Telegraph Act, 1885, It is hereby enacted as follows —

XIII

1. The following section shall be added to that Act, namely —

(See Vol II)

¹ For notification extending the provisions of Act 8 of 1851 and of Act 15 of 1864 to Lower Burma, under s 2 of this Act, see Bur R M

² The words "the words 'and the Governor of the Presidency of Bombay in Council' are hereby repealed and" were repealed by the Repealing and Amending Act, 1891 (12 of 1891)

³ Short title, "The Indian Telegraph (Presidency towns) Act, 1888," see the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons see Gazette of India, 1888, Pt V, p 45, and for Proceedings in Council, see *ibid*, Pt VI, pp 83 and 102

ACT No XVII or 1888 ¹

[26th October, 1888]

An Act to amend the Indian Marine Act, 1887

WHEREAS it is expedient to amend the Indian Marine Act, 1887, It is hereby enacted as follows —

1 For sub section (2) of section 2 of the Indian Marine Act, 1887, the following shall be substituted, namely —

Amendment of section 2 Act XIV of 1887

(*vide supra*, p 30)

ACT No I of 1889 ²

[1st February, 1889]

An Act for the Protection of Coinage and other purposes

WHEREAS it is expedient to prohibit the making, or the possession for issue or the issue, by private persons, of pieces of metal for use as money,

And whereas it is also expedient to amend section 28 of the Indian Penal Code,

It is hereby enacted as follows —

1 (1) This Act may be called the Metal Tokens Act 1889

Title and extent

(2) It extends to the whole of British India,³

.. . .

2 In this Act “ issue ” means to put a piece of metal into circulation for the first time for use as money in British India such piece having

Definition

¹ Short title The Indian Marine Act (1887) Amendment Act 1888, see the Indian Short Titles Act 1897 (14 of 1897)

For Statement of Objects and Reasons see Gazette of India 1888 Pt V, p 103 and for Proceedings in Council see *ibid* Pt VI pp 110 and 133

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act (14 of 1887) declared in force there by the Burma Laws Act 1898 (13 of 1898) s 4 Bur Code

² For Statement of Objects and Reasons, see Gazette of India, 1888, Pt V, p 19, for Report of the Select Committee see *ibid* 1889, Pt IV, p 3, and for Debates in Council see *ibid* 1888 Pt VI pp 40 and 81, and *ibid* 1889 Pt VI pp 3 and 9

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1898 (13 of 1898) in the Arakan Hill District by Regulation 1 of 1916 s 2 Bur Code

It had been previously extended there by notification under s 5 of the Scheduled Districts Act, 1874 (14 of 1874) see Burma Gazette, 1893 Pt 1, p 154

³ The word “ and ” at the end of subsection (2) and subsection (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

been made in contravention of this Act or brought into British India by sea or by land in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878

VIII

3 No piece of copper or bronze or of any other metal or mixed metal, which, whether stamped or unstamped, is intended to be used as money, shall be made except by the authority of the Governor General in Council

4 (1) In either of the following cases, namely —

(a) if any person makes in contravention of the last foregoing section or issues or attempts to issue, any such piece as is mentioned in that section,

(b) if, after the expiration of three months from the commencement of this Act, any person has in his possession, custody or control any such piece as is mentioned in the last foregoing section, with intent to issue the piece,

the person shall be punished

(i) if he has not been previously convicted under this section, with imprisonment which may extend to one year, or with fine, or with both, or,

(ii) if he has been previously convicted under this section, with imprisonment which may extend to three years, or with fine, or with both

(2) If any person is convicted of an offence under sub section (1), he shall, in addition to any other punishment to which he may be sentenced, forfeit all such pieces as aforesaid and all instruments and materials for the making of such pieces which may have been found in his possession custody or control

(3) If in the trial of any such offence the question arises whether any piece of metal or mixed metal was intended to be used or to be issued for use as money, the burden of proving that the piece was not intended to be so used or issued shall lie on the accused person

5 (1) The offence of making, in contravention of section 3, any such piece as is mentioned in that section shall be a cognizable offence

(2) Notwithstanding anything in the Code of Criminal Procedure 1892, no other offence punishable under section 4 shall be a cognizable offence, or beyond the limits of a presidency-town be taken cognizance of

of by any Magistrate, except a District Magistrate or Sub Divisional Magistrate, without the previous sanction of the District Magistrate or Sub Divisional Magistrate

6 If at any time the Governor General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea or by land into British India of any such pieces of metal as are mentioned in section 3, he may by the notification¹ direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act 1878, and that the provisions of sub section (3) of section 4 and sub section (1) of section 5, or of either sub-section, in relation to the offence of making such pieces shall notwithstanding anything in the Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction notified under section 19 of that Act

Application of certain of the foregoing provisions of this Act to importation of pieces of metal for use as money

7. [Addition to section 98, Act X of 1882] Rep by the Code of Criminal Procedure, 1898 (Act V of 1898)

8 (1) No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any railway administration or local authority

Prohibition of receipt by local authorities and railways as money of metal which is not coin

(2) If any person on behalf of a railway administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished with fine which may extend to ten rupees

9 For the Explanation to section 28 of the Indian Penal Code the following shall be substituted, namely —

Amendment of section 28 of the Indian Penal Code

“ Explanation 1 —It is not essential to counterfeiting that the imitation should be exact

“ Explanation 2 —When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised ”

¹ For notification issued under this power, see Genl R and O

ACT No II OF 1889¹

[15th February, 1889]

AN Act to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India, It is hereby enacted as follows —

- 1 (1) This Act may be called the Measures of Length Act, 1889
- (2) It extends to the whole of British India, and
- (3) It shall come into force on such day as the Governor General in Council may appoint in this behalf

2 The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India and be called the standard yard

3 A copy approved by the Governor General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom shall be kept in such place within the limits of the Town of Calcutta as the Governor General in Council may prescribe and shall be the standard for determining the length of the standard yard

4 One third part of the standard yard shall be called a standard foot, and one-thirty sixth part of such a yard shall be called a standard inch

5 Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor General in Council or of a Local Government and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor General in Council or the

¹ For Statement of Objects and Reasons see Gazette of India, 1888 Pt V, p 41 for Report of the Select Committee see *ibid* 1889 Pt IV p 6 and for Proceedings in Council, see *ibid* 1889 Pt VI pp 66 and 82 and *ibid* 1890 Pt VI, p 20

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1893 (13 of 1893) Bur Code

It had been previously extended there by notification under s 5 of the Scheduled Districts Act 1874 (14 of 1874), see Burma Gazette 1893 Pt I, p 154

² The Act was brought into force on the 15th June, 1889, see Genl R and O

³ For notification prescribing such a place see Genl R and O

1 Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved

6 A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession

Inspection of certified measures by the public

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866 by the Commissioners in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1888, by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1888, by the Municipal Commissioner in the City of Bombay under section 418 of the City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of Regulation XII of 1827 of the Bombay Code, such certified measures of the standard yard standard foot and standard inch as are mentioned in section 5

Certified measures to be kept by authorities required by existing enactments to keep measures of length

ACT No IV or 1889

[1st March, 1889]

An Act to amend the Law relating to Fraudulent Marks on merchandise

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise, It is hereby enacted as follows —

- 1 (1) This Act may be called the Indian Merchandise Marks Act, 1889
- (2) It extends to the whole of British India and * * *
- (3) It shall come into force on the first day of April, 1889

Title extent and commencement

1 For officers appointed to have charge of such measures see different local Rules and Orders
2 The Act was repealed by Bengal Act 3 of 1899 which has in turn been repealed and replaced by Bengal Act 3 of 1923
3 Mad Code
4 Bom Code
5 For Statement of Objects and Reasons see Gazette of India, 1883, Pt V, p 109, for Report of the Select Committee see *ibid* 1883, Pt V, p 27, and for Proceedings in Council see *ibid*, 1883, Pt VI, pp 111 and 136 and *ibid* 1889 Pt VI, p 33

(Amendment of the Indian Penal Code)

2 In this Act, unless there is something repugnant in the subject context,—

- (1) "trade mark" has the meaning assigned to that expression in section 478 of the ¹ Indian Penal Code as amended by XLV of this Act
- (2) "trade description" ² means any description, statement or other indication, direct or indirect,—
 - (a) as to the number, quantity, measure, gauge or weight of any goods, or
 - (b) as to the place or country in which, or the time at which, any goods were made or produced, or
 - (c) as to the mode of manufacturing or producing any goods, or
 - (d) as to the material of which any goods are composed, or
 - (e) as to any goods being the subject of an existing patent, privilege or copyright,
 and the use of any numeral, word or mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act
- (3) ¹ "false trade description" means a trade description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act
- (4) "goods" means anything which is the subject of trade or manufacture and
- (5) "name" includes any abbreviation of a name

Amendment of the Indian Penal Code

3 For that part of Chapter XVIII of the Indian Penal Code which ^{211 of 18} relates to Trade and Property Marks the following shall be substituted, namely —

"Of Trade, Property and other marks

¹ "478 A mark used for denoting that goods are the manufacture or merchandise of a particular person is called a trade mark, and for the

¹ Of the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 23, s. 3 (1)]

(Amendment of the Indian Penal Code)

purposes of this Code the expression 'trade mark' includes any trade mark which is registered in the register of trade marks kept under the Patents, Designs and Trade Marks Act, 1883, and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State in which the provisions of the one hundred and third section of the Patents, Designs and Trade Marks Act, 1883 are, under Order in Council, for the time being applicable

" 479 A mark used for denoting that moveable property belongs to a particular person is called a property mark. Property mark.

" 480 Whoever marks any goods in any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, are the manufacture or merchandise of a person whose manufacture or merchandise they are not, is said to use a false trade mark. Using a false trade mark.

" 481 Whoever marks any moveable property or goods or any case, package or other receptacle containing moveable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark. Using a false property mark.

" 482 Whoever uses any false trade mark or any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Punishment for using a false trade mark or property mark.

" 483 Whoever counterfeits any trade mark or property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Counterfeiting a trade mark or property mark used by another.

" 484 Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. Counterfeiting a mark used by a public servant.

" 485 Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade mark or property mark, or has in his possession a trade mark or property mark for the purpose of denoting that any goods are the manufacture or merchandise Making or possession of any instrument for

(Amendment of the Indian Penal Code Trade Descriptions)

counterfeiting a trade mark or property mark

of a person who manufactures or merchandise they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

Selling goods marked with a counterfeit trade mark or property mark

" 486 Whoever sells, or exposes or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark or property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and

(b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

he punished with imprisonment of either description for a term which may extend to one year, or with fine or with both

Making a false mark upon any receptacle containing goods

" 487 Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

Punishment for making use of any such false mark

" 488 Whoever makes use of any such false mark in any manner prohibited by the last foregoing section shall, unless he proves that he acted without intent to defraud be punished as if he had committed an offence against that section

Tampering with property mark with intent to cause injury

" 489 Whoever removes, destroys, defaces or adds to any property mark intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both "

Trade Descriptions

Provisions supplemental to the definitions

" 4 (1) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade

¹ Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 28, s. 3 (2)], and Wright thereon pp. 1st and 7th

(Trade Descriptions)

description is applied shall extend to the application to goods of any such numerals words or marks or arrangement or combination thereof whether including a trade mark or not as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person who manufactures them as they really are and in goods having such numerals words or marks or arrangement or combination applied therein

(2) The provisions of this Act respecting the application of a false trade description to goods or respecting goods to which a false trade description is applied shall extend to the application to goods of any false name or initials of a person and in goods with the false name or initials of a person applied in like manner as if such name or initials were a trade description and for the purpose of this enactment the expression false name or initials means as applied to any goods any name or initials—

- (a) not being a trade mark or part of a trade mark and
- (b) being identical with or a colourable imitation of the name or initials of a person carrying on business in connection with goods of the same description and not having authorized the use of such name or initials

(3) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards feet or inches than there are contained therein standard yards standard feet or standard inches is a false trade description

5 (1) A person shall be deemed to apply a trade description to goods who—

- (a) applies it to the goods themselves or
- (b) applies it to any covering label reel or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture or
- (c) places encloses or annexes any goods which are sold or are exposed or had in possession for sale or any purpose of trade or manufacture in with or to any covering label reel or other thing to which a trade description has been applied or
- (d) uses a trade description in any manner reasonably calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade description

(2) A trade description shall be deemed to be applied whether it is woven impressed or otherwise worked into or annexed or affixed to the goods or any covering label reel or other thing

¹ Cf the Merchandise Marks Act 1888 [50 & 51 Vict c 93 s 3 (3)]
² Cf the Merchandise Marks Act 1888 [50 & 51 Vict c 23 s 5]

(Trade Descriptions Unintentional Contravention of the Law relating to Marks and Descriptions)

(3) The expression "covering" includes any stopper, cork, bottle, vessel, box, cover, capsule, case, frame or wrapper, and the expression "label" includes any brand or ticket

Penalty for applying a false trade description

¹ 6 If a person applies a false trade description to goods, he shall, subject to the provisions of this Act, and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine, or with both

Penalty for selling goods to which a false trade description is applied.

² 7 If a person sells or exposes or has in possession for sale or any purpose of trade or manufacture any goods or things to which a false trade description is applied he shall unless he proves—

(a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade description and

(b) that on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(c) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction with imprisonment which may extend to one year, or with fine or with both

Unintentional Contravention of the Law relating to Marks and Descriptions

Unintentional contravention of the law relating to marks and descriptions.

³ 8 Where a person is accused under section 482 of the Indian Penal Code of using a false trade mark or property mark by reason of his having applied a mark to any goods property or receptacle in the manner mentioned in section 480 or section 481 of that Code as the case may be, or under section 6 of this Act of applying to goods any false trade description, or under section 485 of the Indian Penal Code of making

¹ Cf the Merchandise Marks Act 1887 [50 & 51 Vict c 23 s 2 (1)] For instructions as to prosecutions under this section for offences relating to the short reeling of yarn in Indian mills see Bombay Government Gazette 1900 Pt 1 p 48

² For instructions as to prosecutions under this section for offences relating to the short reeling of yarn in Indian mills see Bombay Government Gazette 1900 Pt 1 p 48

³ Cf the Merchandise Marks Act 1887 [50 & 51 Vict c 23 s 6]

*(Unintentional Contravention of the Law relating to Marks and
Descriptions Forfeiture of Goods)*

any die plate or other instrument for the purpose of counterfeiting a trade mark or property mark, and proves—

- (a) that in the ordinary course of business he is employed, on behalf of other persons, to apply trade marks or property marks, or trade descriptions, or, as the case may be, to make dies, plates or other instruments for making, or being used in making, trade marks or property marks, and that in the case which is the subject of the charge he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and
- (b) that he took reasonable precautions against committing the offence charged and
- (c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description, and
- (d) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted

Forfeiture of Goods

19 (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade mark, or under section 486 of that Code of selling, or exposing or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade mark applied thereto, or under section 487 or section 488 of that Code of making or making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade description to goods or of selling, or exposing or having in possession for sale or any purpose of trade or manufacture any goods or things to which a false trade description is applied, or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of, or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed

Forfeiture of goods.

(2) When a forfeiture is directed on a conviction, and an appeal lies against the conviction an appeal shall lie against the forfeiture also

(3) When a forfeiture is directed on an acquittal and the goods or things to which the direction relates are of value exceeding fifty rupees,

(Forfeiture of Goods Amendment of the Sea Customs Act, 1878)

an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture

Amendment of the Sea Customs Act, 1878

Amendment
of section 18
Act VIII of
1878

10 (I) For clause (d) of section 18 of the Sea Customs Act, 1878, VIII the following shall be substituted, namely —

(d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889

(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be * * * * the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India unless—

(1) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(11) ²[the country in which that place is situated is] in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and the same language and character as the name or trade mark "

(2) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (I), the following shall be added, namely —

(f) piece goods such as are ordinarily sold by length or by the piece which—

(1) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and

Cf. the Merchandise Marks Act 1889 [30 & 31 Vict., c. 23 s. 16 (2)]

¹The words "or being a colourable imitation of" were repealed by the Sea Customs (Amendment) Act, 1904 (16 of 1904)

²These words were substituted by the Indian Merchandise Marks and Sea Customs Acts Amendment Act 1911 (4 of 1911)

(Amendment of the Sea Customs Act, 1878)

(ii) have been manufactured beyond the limits of India,
or

(iii) having been manufactured within those limits have
been manufactured beyond the limits of British
India in premises which, if they were in British
India, would be a factory as defined in the Indian
Factories Act, 1881

11 The following shall be added after section 19 of the Sea Customs Act, 1878, namely —

Addition of
a section
after section
19 Act VIII
of 1878

" 19A (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported

Detention
and confis-
cation of
goods whose
importation
is prohibited

(2) The Governor General in Council may make regulations,² either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19 or different regulations may be made respecting different classes of such goods or of offences in relation to such goods

(5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention

¹ Cf. the Merchandise Marks Act 1887 [50 & 51 Vict., c. 93 s. 16 (2) (3), (4), (5) (1) and (8)]

² For rules made under this power conjointly with sections 19 and 20 see Genl R. & O., Vol II p. 639

(Forfeiture of Goods Amendment of the Sea Customs Act, 1878)

an appeal against the forfeiture may be preferred, within thirty days from the date of the direction to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture

Amendment of the Sea Customs Act, 1878

Amendment
of section 18
Act VIII of
1878

¹10 (1) For clause (d) of section 18 of the Sea Customs Act, 1878, VIII the following shall be substituted, namely —

(d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889

(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be * * * * the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(1) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(1) ²[the country in which that place is situated is] in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and the same language and character as the name or trade mark "

(2) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (1), the following shall be added namely —

' (f) piece goods such as are ordinarily sold by length or by the piece which—

(1) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and

¹ Cf. the Merchandise Marks Act, 1887 [50 & ol Vict, c 28 s 16 (2)]

² The words "or being a colourable imitation of" were repealed by the Sea Customs (Amendment) Act, 1904 (16 of 1904)

³ These words were substituted by the Indian Merchandise Marks and Sea Customs Acts Amendment Act 1891 (9 of 1891)

(Amendment of the Sea Customs Act, 1878)

(ii) have been manufactured beyond the limits of India,
or

(iii) having been manufactured within those limits have
been manufactured beyond the limits of British
India in premises which, if they were in British
India, would be a factory as defined in the Indian
Factories Act, 1881

11 The following shall be added after section 19 of the Sea Customs Act, 1878, namely —

Addition of
a section
after section
19 Act VIII
of 1878

19A (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported

Detention
and confis-
cation of
goods whose
importation
is prohibited

(2) The Governor General in Council may make regulations,¹ either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods

(5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention

¹ Cf. the Merchandise Marks Act, 1887 [50 & 51 Vict., c. 23 s. 16 (2) (3), (4), (5) (*) and (8)]

² For rules made under this power conjointly with sections 19 and 20 see Genl R & O, Vol II p. 639

(Forfeiture of Goods Amendment of the Sea Customs Act, 1878)

an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture

Amendment of the Sea Customs Act, 1878

Amendment
of section 18
Act VIII of
1878

'10 (1) For clause (d) of section 18 of the Sea Customs Act, 1878, VIII of the following shall be substituted, namely —

' (d) goods having applied thereto a counterfeit trade mark within the meaning of the Indian Penal Code, or a false trade description within the meaning of the Indian Merchandise Marks Act, 1889

(e) goods made or produced beyond the limits of the United Kingdom and British India and having applied thereto any name or trade mark being, or purporting to be * * * * the name or trade mark of any person who is a manufacturer, dealer or trader in the United Kingdom or in British India, unless—

(1) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place beyond the limits of the United Kingdom and British India, and

(2) [the country in which that place is situated is] in that indication indicated in letters as large and conspicuous as any letter in the name or trade mark, and the same language and character as the name or trade mark "

(2) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (1), the following shall be added, namely —

' (f) piece goods, such as are ordinarily sold by length or by the piece, which—

(1) have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and

¹ Cf. the Merchandise Marks Act 1888 [No. 51 of 1888, c. 28, s. 16 (2)]

² The words "or being a colourable imitation of" were repealed by the Sea Customs (Amendment) Act, 1904 (16 of 1904)

³ These words were substituted by the Indian Merchandise Marks and Sea Customs Acts Amendment Act 1891 (9 of 1891)

(Amendment of the Sea Customs Act, 1878)

- (ii) have been manufactured beyond the limits of India, or
- (iii) having been manufactured within those limits have been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Indian Factories Act, 1891

11 The following shall be added after section 19 of the Sea Customs Act, 1878, namely —

Addition of a section after section 19 Act VIII of 1878

1 19A (1) Before detaining any such goods as are or may be specified in or under section 18 or section 19, as the case may be, or taking any further proceedings with a view to the confiscation thereof under this Act, the Chief Customs officer or other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with and may satisfy himself in accordance with those regulations that the goods are such as are prohibited to be imported

Detention and confiscation of goods whose importation is prohibited

(2) The Governor General in Council may make regulations either general or special, respecting the detention and confiscation of goods the importation of which is prohibited, and the conditions, if any, to be fulfilled before such detention and confiscation, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section and the mode of verification of such evidence

(3) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or British India, that name, unless accompanied in equally large and conspicuous letters, and in the same language and character, by the name of the country in which such place is situate, shall be treated for the purposes of sections 18 and 19 as if it were the name of a place in the United Kingdom or British India

(4) Such regulations may apply to all goods the importation of which is prohibited by section 18 or under section 19, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods

(5) The regulations may provide for the informant reimbursing any public officer and the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention

¹ Cf the Merchandise Marks Act 1887 [50 & 51 Vict c 28 s 16 (2) (3) (4), (5) (7) and (8)]

² For rules made under this power conjointly with sections 19 and 20 see Genl P & O Vol II p 639

(Amendment of the Sea Customs Act, 1878 Stamping of Length of Piece goods manufactured in British India Supplemental Provisions)

(6) All regulations under this section shall be published in the Gazette of India and in the Calcutta Port St George Bombay and Burma Gazettes "

Stamping of Length of Piece goods manufactured in British India

Stamping of length of piece goods manufactured in British India.

¹ 12 (1) Piece goods, such as are ordinarily sold by length or by the piece, which have been manufactured in premises which are a factory as defined in the Indian Factories Act, 1881, shall not be removed from those premises without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard according to the real length of the piece

(2) If any person removes or attempts to remove any such piece goods from any such premises without the length of each piece being stamped in the manner mentioned in sub section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees

Supplemental Provisions

Evidence of origin of goods imported by sea

² 13 In the case of goods brought into British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act 1878 as amended by this VI Act, be *prima facie* evidence of the place or country in which the goods were made or produced

Costs of defence or prosecution

³ 14 (1) On any such prosecution as is mentioned in the last foregoing section or on any prosecution for an offence against any of the sections of the Indian Penal Code, as amended by this Act which relate to trade, property and other marks, the Court may order costs to be paid to the defendant by the prosecutor or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively

(2) Such costs shall on application to the Court be recoverable as if they were a fine

Limitation of prosecution

⁴ 15 No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence or one year after the first discovery thereof by the prosecutor, whichever expiration first happens

¹ See now the Indian Factories Act, 1911 (12 of 1911)

² Cf. the Merchandise Marks Act 1887 [50 & 51 Vict. c. 28 s. 10 (2)]

³ Cf. *ibid.* s. 14

⁴ Cf. *ibid.* s. 15

(Supplemental Provisions)

16. (1) The Governor General in Council may, by notification in the Gazette of India and in local official Gazettes, issue instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act

Authority of the Governor General in Council to issue instructions as to administration of this Act

(2) Instructions under sub section (1) may provide, among other matters, for the limits of variation, as regards number, quantity measure, gauge or weight, which are to be recognized by Criminal Courts as permissible in the case of any goods

17 On the sale or in the contract for the sale of any goods to which a trade mark or mark or trade description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark and not counterfeit or falsely used, or that the trade description is not a false trade description within the meaning of this Act unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the buyer

Implied warranty on sale of marked goods

18 (1) Nothing in this Act shall exempt any person from any suit or other proceeding which might, but for anything in this Act, be brought against him

Suits

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India who in good faith acts in obedience to the instructions of such master, and on demand made by or on behalf of the prosecutor, has given full information as to his master and as to the instructions which he has received from his master

19 [Date of commencement of this Act as regards unstamped piece-goods] Rep Act IX of 1891

20 For the purpose of section 12 of this Act and clause (f) of section 18 of the Sea Customs Act 1878 as amended by this Act, the Governor General in Council may, by notification in the Gazette of India, declare what classes of goods are included in the expression 'piece goods, such as are ordinarily sold by length or by the piece'

Definition of piece goods

¹ For notifications containing such instructions see Genl R and O, Vol II and Bur R M, Vol II

² Of the Merchandise Marks Act 1887 (50 & 51 Vict c 28 s 17)

³ Cf *ibid* s 19

⁴ Original s 19 and the words Transitory Provision prefixed thereto were repealed by the Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891 (9 of 1891), and ss 19 to 22 as they stand at present were added by s 4, *ibid*

⁵ For rules issued under this section see Genl R and O Vol II

Determina-
tion of
character of
goods by
sampling

20 (1) The Governor General in Council may make rules for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity measure gauge or weight, for the number of samples to be selected and tested and for the selection of the samples

(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub section (1), the Court or officer of Customs as the case may be having occasion to ascertain the number quantity, measure gauge or weight of the goods shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected

(3) The average of the results of the testing in pursuance of rules under sub section (1) or of an order under sub section (2) shall be *prima facie* evidence of the number, quantity, measure gauge or weight as the case may be of the goods

(4) If a person having any claim to or in relation to any good of which samples have been selected and tested in pursuance of rules under sub section (1) or of an order under sub section (2) desires that any further samples of the goods be selected and tested they shall on his written application and on the payment in advance by him to the Court or officer of Customs as the case may be of such sums for defraying the cost of the further selection and testing as the Court or officer may from time to time require be selected and tested to such extent as may be permitted by rules to be made by the Governor General in Council in this behalf or as in the case of goods with respect to which provision is not made in such rules the Court or officer of Customs may determine in the circumstances to be reasonable the samples being selected in manner prescribed under sub section (1) or in sub section (2) as the case may be

(5) The average of the results of the testing referred to in sub section (3) and of the further testing under sub section (4) shall be conclusive proof of the number quantity measure gauge or weight as the case may be of the goods

(6) Rules under this section shall be made after previous publication

Information
as to com-
mission of
offence.

21 An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act

22. If any person, being within British India, abets the commission, without British India, of any act which, if committed in British India, would, under this Act, or under any section of that part of Chapter XVIII of the Indian Penal Code which relates to trade, property and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.]

Punishment
of abetment
in India of
acts done out
of India

THE SUCCESSION CERTIFICATE ACT, 1889.

SECTIONS.

1 to 12 Rep Act 39 of 1925

13 Amendment of Act VII, 1870

14 to 28 Rep Act 39 of 1925

THE FIRST SCHEDULE—Rep Act 39 of 1925.

THE SECOND SCHEDULE—Rep Act 39 of 1925.

ACT No VII of 1889

[8th March, 1889]

An Act to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons; It is hereby enacted as follows—

1—12. Rep by Act 39 of 1925

¹ Cf. s 109A of the Indian Penal Code (Act 45 of 1860)

² Repealed, with the exception of s 13 by the Indian Succession Act, 1925 (30 of 1925)

Amendment
of Act VII,
1870.

13. (1) For articles 11 and 12 of the first schedule to the Court-fees Act, 1870 the following shall be substituted, namely :—

VII c

Number		Proport fee
11 Probate of a will or letters of administration with or without will annexed	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees	Two per centum on such amount or value provided that when after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code, No VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant
12 Certificate under the Succession Certificate Act, 1889	In any case	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act <p>NOTE—(1) The amount of a debt is its amount, including interest on the day on which the inclusion of the debt in the certificate is applied for so far as such amount can be ascertained</p> <p>(2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of, the security or for both purposes, the value of the security is its market-value on the day in which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained</p> <p>(1) As regards debts and securities, the value fee would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate as the case may be, and</p>
12A Certificate under the Regulation of the Bombay Code, No VIII of 1827		

¹ Section 13 in so far as it substituted Arts. 11 and 12A in the Court-fees Act, 1870, Sch. 1, is now rendered obsolete by the Court-fees (Amendment) Act, 1910 (7 of 1910), s. 2, which has substituted new Arts. 11 and 12A

Number	Page
	(2) as regards other property in the fact of which the certificate is granted two per centum on as much of the amount or value of such property as exceeds one thousand rupees

(2) In the Court-fees Act, 1870 section 19, clause viii, for the words and figures and certificate mentioned in the first schedule to this Act annexed No 12 the words and figures and, save as regards debts and securities, a certificate under "Bombay Regulation VIII of 1827" shall be substituted

14-28 Rep by Act 39 of 1920

THE FIRST SCHEDULE

(Rep by Act 39 of 1925)

THE SECOND SCHEDULE

(Rep by Act 39 of 1925)

ACT No VIII of 1889 *

[22nd March, 1889]

An Act to amend the Sea Customs Act, 1878 * *

WHEREAS it is expedient to amend the Sea Customs Act, 1878, * *

* * It is hereby enacted as follows:—

Sea Customs Act, 1878

1 For the proviso to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted namely —

"Provided that, if such goods are warehoused under this Act, the rate and valuation (if any) applicable thereto shall be the rate and valuation

Amendment of section 37, Act VIII, 1878

* Bom Code Vol I
* Short title, "The Sea Customs Act (1878) Amendment Act, 1889" or the Indian Short Titles Act, 1897 (14 of 1897)

* Gazette of India, 1889, Pt V p 2, 37, and for Proceedings in Council,

* the Shan States) as being a portion area in force there by the Burma Laws Act 1893

* "to section 3, have been omitted as the Indian ss 3 to 5 of this Act have been repealed by the

tion in force on the date on which application is made to clear such goods from the warehouse for home consumption "

Amendment
of section
115 Act
VIII 1878

2 In section 115 of the same Act for the words and figures " the second proviso to section 37 " the words " such alteration " shall be substituted

3-5 [*Amendment of Act VI 1882*] *Rep by the Indian Tariff Act 1894 (VIII of 1894)*

ACT No I of 1890¹

[14th February 1890]

An Act to make better provision for recovering certain public demands

WHEREAS it is expedient to make better provision for recovering certain public demands It is hereby enacted as follows —

Title and
extent

1 (1) This Act may be called the Revenue Recovery Act 1890

(2) It extends to the whole of British India * * * and British Baluchistan *

* * * * *

Definitions

2 In this Act unless there is something repugnant in the subject or context —

(1) " district " includes a presidency town,

(2) " Collector " means the chief officer in charge of the land revenue administration of a district, and

(3) " defaulter " means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum

¹ See *the Gazette of India, 1887, Pt V, p 66 and 67, and ibid 1890 Pt VI, pp 66 and 67, and ibid 1890 Pt VI, pp*

This Act has been declared in force in the South Parganas under s 3 of the South Parganas Settlement Regulation (3 of 1872) as amended by the South Parganas Justice and Laws Regulation 1899 (3 of 1899), B & O Code

It has been declared in force in the Angul District by the Angul Laws Regulation, 1913 (3 of 1913) B & O Code

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1898 (13 of 1898) Bir Code in Arakan Hill District by Regulation 1 of 1916 s 2

The Act has been modified in its application to the Benares Family Domains see s 15 of B P Act 3 of 1904 U P Code Vol II

The words " inclusive of Upper Burma " were repealed by the Fifth Schedule to the Burma Laws Act, 1898 (13 of 1898) Bir Code

The word " and " at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

3 (1) Where an arrear of land revenue, or a sum recoverable as an arrear of land revenue is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule stating—

Recovery of public demands by enforcement of process in other districts than those in which they become payable

(a) the name of the defaulter and such other particulars as may be necessary for his identification and

(b) the amount payable by him and the account on which it is due

(2) The certificate shall be signed by the Collector making it [for his] or by any officer to whom such Collector may, by order in writing, delegate this duty,] and save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated

(3) The Collector of the other district shall on receiving the certificate proceed to recover the amount stated therein as if it were an arrear of land revenue which had accrued in his own district

4 (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent institute a suit for the repayment of the amount or the part thereof so paid

Remedy available to person denying liability to pay amount recovered under last foregoing section

(2) A suit under sub section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate and the suit shall be determined in accordance with the law in force at the place where the arrear accrued or the liability for the payment of the sum arose

(3) In the suit the plaintiff may notwithstanding anything in the last foregoing section but subject to the law in force at the place aforesaid give evidence with respect to any matter stated in the certificate

5 Where any sum is recoverable as an arrear of land revenue by any public officer other than a Collector or by any local authority the Collector of the district in which the office of that officer or authority is situate shall on the request of the officer or authority proceed to recover the sum as if it were an arrear of land revenue which has accrued in his own district and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act, as if the sum were payable to himself

Recovery by Collectors of sums recoverable as arrears of revenue by other public officers or by local authorities

6 (1) When the Collector of a district receives a certificate under this Act he may issue a proclamation prohibiting the transfer or charge

Property liable to sale under this Act

¹ These words were inserted by Schedule Part I of the Decentralisation Act 1914 (4 of 1914)

ing of any immovable property belonging to the defaulter in the district

(2) The Collector may at any time by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount

(3) Any private alienation of the property or of any interest of the defaulter therein whether by sale gift mortgage or otherwise made, after the issue of the proclamation and before the withdrawal thereof, shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate

(4) Subject to the foregoing provisions of this section when proceedings are taken against any immovable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests

(5) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates

7 Nothing in the foregoing sections shall be construed—

(a) to impair any security provided by or affect the provisions of any other enactment for the time being in force for the recovery of land revenue or of sums recoverable as arrears of land revenue or

(b) to authorise the arrest of any person for the recovery of any tax payable to the corporation commissioner committee, board council or person having authority over a municipality under any enactment for the time being in force

8 When this Act has been applied to any local area which is under the administration of the Governor General in Council but which is not part of British India an arrear of land revenue accruing in that local area or a sum recoverable as an arrear of land revenue and payable to a Collector or other public officer or to a local authority in that local area may be recovered under this Act in British India

Saving of
local laws
relating to
revenue

Recovery
in British
India of
certain public
demands
or sums
levied and
payable
in British
India

THE SCHEDULE

CERTIFICATE

[See section 3, sub-section (1)]

From

The Collector of

To

The Collector of

Dated the of 18 .

The sum of Rs
account of

is payable on
by

son of

* resident

of _____, who is believed (to be
at _____) (to have property consisting
of _____ at _____) in your
district.

Subject to the provisions of the Revenue Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district and you are hereby desired so to recover it and to remit it to my office at

$A \quad B$

Collector of

ACT No. VI of 1890 ¹

[7th March 1890]

An Act to provide for the Vesting and Administration of
Property held in trust for charitable purposes

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes, It is hereby enacted as follows —

1 (1) This Act may be called the Charitable Endowments Act, 1890 Title extent

(2) It extends to the whole of British India, inclusive of British Baluchistan, and

(3) It shall come into force on the first day of October, 1890

2 In this Act, "charitable purpose" includes relief of the poor Definition.
education medical relief and the advancement of any other object of

¹ For Statement of Objects and Reasons, see Gazette of India 1889 Pt V p 137, for Report of the Select Committee see *ibid*, 1890 p 65, and for Proceedings in Council, see *ibid*, 1889 Pt VI, pp 117 and 190, and *ibid*, 1890, Pt VI, p 37.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1898 (13 of 1893) Bur Code

The Act has been declared in force in the Sonthal Parganas under s. 3 of the Sonthal Parganas Settlement Regulation (3 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation 1899 (3 of 1899), B & O Code, Vol. I

*The words "Upper Burma and" were repealed by the Fifth Schedule of the Burma Laws Act 1909 (13 of 1909) Bar Code

ing of any immovable property belonging to the defaulter in the district

(2) The Collector may at any time by order in writing, withdraw the proclamation and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount

(3) Any private alienation of the property or of any interest of the defaulter therein whether by sale gift mortgage or otherwise made after the issue of the proclamation and before the withdrawal thereof shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate

(4) Subject to the foregoing provisions of this section when proceedings are taken against any immovable property under this Act for the recovery of an amount stated in a certificate the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests

(5) A proclamation under this section shall be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates

7 Nothing in the foregoing sections shall be construed—

(a) to impair any security provided by or affect the provisions of any other enactment for the time being in force for the recovery of land revenue or of sums recoverable as arrears of land revenue or

(b) to authorise the arrest of any person for the recovery of any tax payable to the corporation commissioner committee board council or person having authority over a municipality under any enactment for the time being in force

8 When this Act has been applied to any local area which is under the administration of the Governor General in Council but which is not part of British India an arrear of land revenue accruing in that local area or a sum recoverable as an arrear of land revenue and payable to a Collector or other public officer or to a local authority in that local area may be recovered under this Act in British India

Having of
local laws
relating to
revenue

Recovery
in British
India of
certain pub-
lic demands
and as
beyond
British
India

THE SCHEDULE

CERTIFICATE

[See section 3, sub section (I)]

From

The Collector of

To

The Collector of

Dated the of 18 .

The sum of Rs
account ofis payable on
by

, son of

, resident

of who is believed (to be
at) (to have property consisting
of at) in your
district

Subject to the provisions of the Revenue Recovery Act 1890 the said sum is recoverable by you as if it were an arrear of land revenue which had accrued in your own district and you are hereby desired so to recover it and to remit it to my office at

A B

Collector of

ACT No VI of 1890¹

[7th March 1890]

An Act to provide for the Vesting and Administration of
Property held in trust for charitable purposes

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes It is hereby enacted as follows —

1 (1) This Act may be called the Charitable Endowments Act 1890

Title extent
and com-
mencement

(2) It extends to the whole of British India, inclusive of * * *
British Baluchistan and

(3) It shall come into force on the first day of October 1890

2 In this Act "charitable purpose" includes relief of the poor
education medical relief and the advancement of any other object of

Definition.

¹ For Statement of Objects and Reasons see Gazette of India 1889 Pt V, p 137, for Report of the Select Committee see *ibid*, 1890 p 63 and for Proceedings in Council see *ibid* 1889 Pt VI pp 117 and 190 and *ibid* 1890 Pt VI, p 37

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1893 (13 of 1893) Bur Code

The Act has been declared in force in the Sonthāl Parganas under s 3 of the Sonthāl Parganas Settlement Regulation (3 of 1892) as amended by the Sonthāl Parganas Justice and Laws Regulation, 1899 (3 of 1899) R & O Code Vol I

The words 'Upper Burma and' were repealed by the Fifth Schedule of the Burma Laws Act 1893 (13 of 1893) Bur Code

general public utility, but does not include a purpose which relates exclusively to religious teaching or worship

Appointment
and incor-
poration of
Treasurer of
Charitable
Endow-
ments

3 (1) The ¹[Local Government] may ²appoint an officer of the Government by the name of his office to be Treasurer of Charitable Endowments for the territories subject to ³[such Local Government]

(2) Such Treasurer shall for the purposes of taking, holding and transferring moveable or immovable property under the authority of this Act be a corporation sole by the name of the Treasurer of Charitable Endowments for the territories subject to the Local Government, and, as such Treasurer shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name

Ord is vest-
ing property
in Treasurer

4 (1) Where any property is held or is to be applied in trust for a charitable purpose the Local Government if it thinks fit may, on application made is hereinafter mentioned and subject to the other provisions of this section order, by 'notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of the property or the income thereof as may be agreed on between the Local Government and the person or persons making the application and the property shall thereupon so vest accordingly

(2) When any property has vested under this section in a Treasurer of Charitable Endowments he is entitled to all documents of title relating thereto

(3) A Local Government shall not make an order under sub section (1) for the vesting in a Treasurer of Charitable Endowments of any securities for money except the following namely —

(a) promissory notes debentures stock and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland

(b) bonds debentures and annuities charged by the Imperial Parliament on the revenues of India

(c) stock or debentures of or shares in, Railway or other Companies the interest whereon has been guaranteed by the Secretary of State for India in Council

(d) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India

¹ These words were substituted for the words "Governor General in Council" by s 2 and Sch I of the Devolution Act 1920 (38 of 1920)

² For officers appointed under the powers conferred by this section see Genl R & O, Vol III

For notification appointing the Accountant-General Punjab to be the Treasurer of Charitable Endowments for the North West Frontier Province, see Gazette of India 1901 Pt I p 536

³ These words were substituted for the words "any Local Government" by s 2 and Sch I of the Devolution Act, 1920 (38 of 1920)

⁴ For notifications issued under this section in conjunction with s 5 see different local Rules and Orders

(c) a security expressly authorised by any order which the
¹[Local Government] may make in this behalf

(4) An order under this section vesting property in a Treasurer of Charitable Endowments shall not require or be deemed to require him to administer the property, or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof

⁵ (1) On application made as hereinafter mentioned and with the concurrence of the person or persons making the application the Local Government if it thinks fit may settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such scheme appoint by name or office a person or persons not being or including such Treasurer to administer the property

Schemes for
 administration
 of property
 vested
 in the Treas-
 urer

(2) On application made as hereinafter mentioned and with the concurrence of the person or persons making the application the Local Government may if it thinks fit modify any scheme settled under this section or substitute another scheme in its stead

(3) A scheme settled modified or substituted under this section shall subject to the other provisions of this section come into operation on a day to be appointed by the Local Government in this behalf and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until it has been modified or another such scheme has been substituted in its stead

(4) Such a scheme when it comes into operation shall supersede any decree or direction relating to the subject matter thereof in so far as such decree or direction is in any way repugnant thereto and its validity shall not be questioned in any Court nor shall any Court be in contravention of the provisions of the scheme or in any way contrary or in addition thereto a decree or direction regarding the administration of the property to which the scheme relates

(5) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust so far as they can be ascertained and in the opinion of the Local Government effect can reasonably be given to them

(6) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments it shall not come into operation until the property has become so vested

¹ These
 by s. 2 a
² For
 different

⁵ error General in Council
 190)
 conjunction with s. 412

Mode of
applying for
vesting orders
and schemes

6 (1) The application referred to in the two last foregoing sections must be made —

(a) if the property is already held in trust for a charitable purpose then by the person acting in the administration of the trust, or where there are more persons than one so acting, then by those persons or a majority of them and

(b) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it

(2) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust

Exercise by
Governor
General in
Council of
powers of
Local Government.

7 (1) The Governor General in Council may exercise all or any of the powers conferred on the Local Government by sections 4 and 5

(2) When the Governor General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not without his previous sanction exercise them with respect thereto

Bare trusteeship of Treasurer

8 (1) Subject to the provisions of this Act a Treasurer of Charitable Endowments shall not as such Treasurer act in the administration of any trust whereof any of the property is for the time being vested in him under this Act

(2) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provision made in that behalf in the vesting order under section 4 or in the scheme if any under section 5 or in both those documents

(3) In the case of any property so vested other than securities for money such Treasurer shall subject to any special order which he may receive from the authority by whose order the property became vested in him permit the persons acting in the administration of the trust to have the possession management and control of the property, and the application of the income thereof as if the property had been vested in them

Annual
publication
of list of
properties

9 A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette at such time as the Local Government may direct a list of all properties for the time being vested in

For notification in exercise of power conferred by s 7 in conjunction with s 4 as to the Indian People's Finance Trust and rules for the administration of the Fund see Genl R & O Vol III in the matter of the Indian Institute of Science see *ibid*

him under this Act and an abstract of all accounts kept by him under sub section (2) of the last foregoing section vested in Treasurer

10 (1) A Treasurer of Charitable Endowments shall always be a sole trustee and shall not as such Treasurer take or hold any property otherwise than under the provisions of this Act or subject to those provisions transfer any property vested in him except in obedience to a decree divesting him of the property or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him Limitation of functions and powers of Treasurer

(2) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him and with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in section 4, sub section (3), clause (a), (b), (c) (d) or (e), or in the purchase of immovable property

(3) When a Treasurer of Charitable Endowments is divested by a direction of the Local Government or the Governor General in Council under this section of any property it shall vest in the person or persons acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer

11 If the office held by an officer of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished or its name is changed the [Local Government] may appoint the same or another officer of the Government by the name of his office to be such Treasurer and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office Provis on for continuation of office of Treasurer in certain contingencies

12² If by reason of an alteration of the limits of the territories subject to a Local Government or for any other reason it appears to the Governor General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in another such Treasurer he may direct that the property shall be so vested and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act Transfer of property from one Treasurer to another

³[13 (1) The Governor General in Council may prescribe forms for Power to frame forms and make rules.

¹ These words were substituted for the word Governor General in Council by s 2 and Sch I of the Devolution Act 1920 (33 of 1920)

² For instance of a notification issued under this section see *Punjab R & O*

³ This section was substituted by s 2 and Sch I of the Devolution Act 1920 (33 of 1920)

any proceedings under this Act any may make rules consistent with this Act for prescribing the Local Government which is to exercise the powers conferred by this Act in the case of property which is, or is situated in territories subject to two or more Local Governments

(2) The Local Government may make rules consistent with this Act for—

- (a) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments
- (b) regulating the cases and the mode in which schemes or any modification thereof are to be published before they are settled or made under section 5,
- (c) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments and the mode in which such accounts are to be audited, and
- (d) generally carrying into effect the purposes of this Act]

Indemnity
to Govern-
ment and
Treasurer

14 No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act or in respect of the exercise of or the failure to exercise any power conferred by this Act on the Government nor shall any suit be instituted against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose or for making him chargeable with or accountable for the loss or misapplication of any property vested in him or the income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default

Saving w
respect t
Advocate
General and
Official
Trustee

15 Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53 George III Chapter 155 or of any other enactment for the time being in force respecting the authority of an Advocate General or a presidency to act with respect to any charity, or of sections 8 9 10 and 11 of Act No XVII of 1864 (*an Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee

16 [General controlling authority of Governor General in Council]
Rep by the Devolution Act, 1920 (33 of 1920)

¹ The East India Company Act 1813 (Coll Stat, Vol D), now repealed by the Government of India Act 1915

² The Official Trustees Act 1964

THE GUARDIANS AND WARDS ACT, 1890.

CONTENTS.

CHAPTER I

PRELIMINARY

SECTIONS.

1. Title, extent and commencement
2. Repeal.
- 3 Saving of jurisdiction of Courts of Wards and Chartered High Courts
4. Definitions.
- 4A. Power to confer jurisdiction on subordinate judicial officers and to transfer proceedings to such officers

CHAPTER II

APPOINTMENT AND DECLARATION OF GUARDIANS

5. Power of parents to appoint in case of European British subjects.
6. Saving of power to appoint in other cases.
- 7 Power of the Court to make order as to guardianship
- 8 Persons entitled to apply for order
- 9 Court having jurisdiction to entertain application
- 10 Form of application
11. Procedure on admission of application
- 12 Power to make interlocutory order for production of minor and interim protection of person and property
- 13 Hearing of evidence before making of order
- 14 Simultaneous proceedings in different Courts.
15. Appointment or declaration of several guardians
- 16 Appointment or declaration of guardian for property beyond jurisdiction of the Court
- 17 Matters to be considered by the Court in appointing guardian
- 18 Appointment or declaration of Collector in virtue of office.
- 19 Guardian not to be appointed by the Court in certain cases.

CHAPTER III

DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS

General.

20. Fiduciary relation of guardian to ward
21. Capacity of minors to act as guardians.

SECTIONS

- 22 Remuneration of guardian
- 23 Control of Collector as guardian

Guardian of the Person

- 24 Duties of guardian of the person
- 25 Title of guardian to custody of ward
- 26 Removal of ward from jurisdiction

Guardian of Property

- 27 Duties of guardian of property
- 28 Powers of testamentary guardian
- 29 Limitation of powers of guardian of property appointed or declared by the Court
- 30 Voidability of transfers made in contravention of section 28 or section 29
- 31 Practice with respect to permitting transfers under section 29
- 32 Variation of powers of guardian of property appointed or declared by the Court
- 33 Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward
- 34 Obligations on guardian of property appointed or declared by the Court
- 35 Suit against guardian where administration bond was taken
- 36 Suit against guardian where administration bond was not taken
- 37 General liability of guardian as trustee

Termination of Guardianship

- 38 Right of survivorship among joint guardians
- 39 Removal of guardian
- 40 Discharge of guardian
- 41 Cessation of authority of guardian
- 42 Appointment of successor to guardian dead discharged or removed

CHAPTER IV

SUPPLEMENTAL PROVISIONS

- 43 Orders for regulating conduct or proceedings of guardians and enforcement of those orders
- 44 Penalty for removal of ward from jurisdiction
- 45 Penalty for contumacy

(Chapter I—Preliminary)

SECTIONS

- 46 Report by Collectors and Subordinate Courts
- 47 Orders appealable
- 48 Invalidity of other orders
- 49 Costs
- 50 Power of High Court to make rules
- 51 Applicability of Act to guardians already appointed by Court
- 52 Amendment of Indian Majority Act
- 53 [Repealed]

THE SCHEDULE—FACTS REPEALED

ACT No VIII of 1890

[21st March 1890]

An Act to consolidate and amend the law relating to Guardian and Ward

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1 (1) This Act may be called the Guardians and Wards Act 1890

Title
extent
and com-
mencement

(2) It extends to the whole of British India inclusive of British Baluchistan and

(3) It shall come into force on the first day of July 1890

For Statement of Objects and Reasons see C. L. R. I 1890 Pt V
for Report of the Select Committee see C. L. R. P. V 1890 and for
Debates in Council see C. L. R. Supplement pp 419 and 666 and C. L. R. 1890
Pt V pp 33 and 45

The Act has been declared in force by the British Government except the Shan States)
the British Law Act 1898 (13 of 1898) Bur. Cole

3 of the Sonthal
Sonthal Parganas
Reg. lat on 1913

in the S. L. Districts in Canjam and
b) of the S. L. Districts Act 184
Pt I p 32
were repealed by the Fifth Schedule to the
Code

(Chapter I—Preliminary)

Repeal

2 (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof

(2) But all proceedings had certificates granted, allowances assigned, obligations imposed and applications, appointments, orders and rules made under any of those enactments shall, so far as may be, be deemed to have been respectively had granted assigned, imposed and made under this Act, and

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof

Saving of
jurisdiction
of Courts of
Wards and
Chartered
High Courts

3 This Act shall be read subject to every enactment heretofore or hereafter passed relating to any Court of Wards by the Governor General in Council or by a Governor or Lieutenant Governor in Council, and nothing in this Act shall be construed to affect, or in any way derogate from, the jurisdiction or authority of any Court of Wards, or to take away any power possessed by any High Court established under the Statute 24 and 25 Victoria Chapter 104 (*an Act for establishing High Courts of Judicature in India*)

Definitions

4 In this Act unless there is something repugnant in the subject or context,—

(1) "minor" means a person who under the provisions of the Indian Majority Act 1875, is to be deemed not to have attained his IX of 1 majority

(2) "guardian" means a person having the care of the person of a minor or of his property, or of both his person and property

(3) "ward" means a minor for whose person or property, or both, there is a guardian

(4) "District Court" has the meaning assigned to that expression in the Code of Civil Procedure, and includes a High Court in the exercise XIV of of its ordinary original civil jurisdiction

“(5) “the Court” means—

(a) the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian; or

¹ The Indian High Courts Act, 1861, Coll Stat Vol I now repealed by the Government of India Act 1915

² See now the Code of Civil Procedure 1908 (Act 5 of 1908)

³ Substituted by s 3 of the Guardians and Wards (Amendment) Act 1906 (4 of 1906)

(Chapter I—Preliminary)

(b) where a guardian has been appointed or declared in pursuance of any such application—

(i) the Court which or the Court of the officer who, appointed or declared the guardian or is under this Act deemed to have appointed or declared the guardian or

(i) in any matter relating to the person of the ward the District Court having jurisdiction in the place where the ward for the time being ordinarily resides or

(c) in respect of any proceeding transferred under section 4A the Court of the officer to whom such proceeding has been transferred]

(6) "Collector" means the chief officer in charge of the revenue-administration of a district and includes any officer whom the Local Government by notification in the official Gazette may by name or in virtue of his office appoint to be a Collector in any local area or with respect to any class of persons* for all or any of the purposes of this Act

(7) "European British subject" means an European British subject as defined in the Code of Criminal Procedure, 1892 and includes any Christian of European descent and

(8) "prescribed" means prescribed by rules made by the High Court under this Act

4[4A (1) The High Court may by general or special order empower any officer exercising original civil jurisdiction subordinate to a District Court or authorise the Judge of any District Court to empower any such officer subordinate to him to dispose of any proceedings under this Act transferred to such officer under the provisions of this section

Power to confer jurisdiction on subordinate judicial officers and to transfer proceedings to such officers

(2) The Judge of a District Court may by order in writing transfer at any stage any proceeding under this Act pending in his Court for disposal to any officer subordinate to him empowered under sub-section (1)

(3) The Judge of a District Court may at any stage transfer to his own Court or to any officer subordinate to him empowered under sub-

For appointments of Collectors under this subsection in—

(1) the Presidency of Bombay see the Bom R & O

(2) the United Provinces of Agra and Oudh see U P R & O

* The powers of the Local Government under this sub-section have been delegated to the Commissioner in Sind vide Notification No 343 dated 17th May 1909 Bom Govt Gazette 189 Pt I p 626

* See now the Code of Criminal Procedure 1898 (Act 5 of 1898)

* Inserted by s 2 of the Guardians and Wards (Amendment) Act 1926 (4 of 1926)

(Chapter I — Preliminary Chapter II — Appointment and Declaration of Guardians)

section (1) any proceeding under this Act pending in the Court of any other such officer

4) When any proceedings are transferred under this section in any case in which a guardian has been appointed or declared, the Judge of the District Court may, by order in writing, declare that the Court of the Judge or officer to whom they are transferred shall, for all or any of the purposes of this Act, be deemed to be the Court which appointed or declared the guardian]

CHAPTER II

APPOINTMENT AND DECLARATION OF GUARDIANS

5 (1) Where a minor is an European British subject a guardian or guardians of his person or property, or both, may be appointed by will or other instrument to take effect on the death of the person appointing,—

(a) by the father of the minor or

(b) if the father is dead or incapable of acting, by the mother

(2) Where guardians have been appointed under sub section (1) by both parents they shall act jointly

6 In the case of a minor who is not a European British subject nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of his person or property, or both, which is valid by the law to which the minor is subject

7 (1) Where the Court is satisfied that it is for the welfare of a minor that an order should be made—

(a) appointing a guardian of his person or property, or both, or

(b) declaring a person to be such a guardian,

the Court may make an order accordingly

(2) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court

(3) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the power of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act

8 An order shall not be made under the last foregoing section except on the application of—

(a) the person desirous of being or claiming to be, the guardian of the minor, or

Power of
parents to
appoint in
case of Euro-
pean British
subjects

having of
power to
appoint in
other cases.

Power of the
Court to
make order
as to guard-
ianship

Persons en-
titled to
apply for
order

(Chapter II—Appointment and Declaration of Guardians)

- (b) any relative or friend of the minor or
- (c) the Collector of the district or other local officer within which the minor ordinarily resides or in which he has property, or
- (d) the Collector having authority with respect to the class to which the minor belongs

9 (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides Court having jurisdiction to entertain application.

(2) If the application is with respect to the guardianship of the property of the minor it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction

10 (1) If the application is not made by the Collector it shall be by Form of application.
 2 petition signed and verified in manner prescribed by the ¹ Code of Civil Procedure for the signing and verification of a plaint and stating, so far as can be ascertained —

- (a) the name sex religion date of birth and ordinary residence of the minor
- (b) where the minor is a female whether she is married and if so the name and age of her husband
- (c) the nature situation and approximate value of the property if any of the minor
- (d) the name and residence of the person having the custody or possession of the person or property of the minor
- (e) what near relations the minor has and where they reside
- (f) whether a guardian of the person or property or both of the minor has been appointed by any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment
- (g) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person or property or both of the minor and if so when to what Court and with what result

¹ See now the Code of Civil Procedure 1908 (Act 5 of 1908)

(Chapter II — Appointment and Declaration of Guardians)

- (h) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both
- (i) where the application is to appoint a guardian, the qualifications of the proposed guardian,
- (j) where the application is to declare a person to be a guardian, the grounds on which that person claims,
- (k) the causes which have led to the making of the application, and
- (l) such other particulars if any, as may be prescribed or as the nature of the application renders it necessary to state

(2) If the application is made by the Collector, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found convenient, and shall state as far as possible the particulars mentioned in sub section (1)

(3) The application must be accompanied by a declaration of the willingness of the proposed guardian to act and the declaration must be signed by him and attested by at least two witnesses

11 (1) If the Court is satisfied that there is ground for proceeding on the application it shall fix a day for the hearing thereof, and cause notice of the application and of the date fixed for the hearing—

(a) to be served in the manner directed in the Code of Civil XIV of 1 Procedure on—

- (i) the parents of the minor if they are residing in British India,
- (ii) the person if any named in the petition or letter as having the custody or possession of the person or property of the minor,
- (iii) the person proposed in the application or letter to be appointed or declared guardian unless that person is himself the applicant, and
- (iv) any other person to whom in the opinion of the Court, special notice of the application should be given, and

(b) to be posted on some conspicuous part of the court house, and of the residence of the minor and otherwise published in such manner as the Court, subject to any rules made by the High Court under this Act thinks fit

¹ See now the Code of Civil Procedure 1908 (Act 5 of 1908)

(Chapter II—Appointment and Declaration of Guardians)

(2) The Local Government may, by 'general or special order, require that when any part of the property described in a petition under section 10, sub section (1), is land of which a Court of Wards could assume the superintendence, the Court shall also cause a notice as aforesaid to be served on the Collector in whose district the minor ordinarily resides, and on every Collector in whose district any portion of the land is situate and the Collector may cause the notice to be published in any manner he deems fit

(3) No charge shall be made by the Court or the Collector for the service or publication of any notice served or published under sub section (2)

12 (1) The Court may direct that the person, if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as it appoints and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper

Power to make interlocutory orders for production of minor and interim protection of person and property

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under sub section (1) for her production shall require her to be produced in accordance with the customs and manners of the country

(3) Nothing in this section shall authorise—

(a) the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband unless she is already in his custody with the consent of her parents if any or

(b) any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property

13 On the day fixed for the hearing of the application or as soon afterwards as may be the Court shall hear such evidence as may be adduced in support of or in opposition to the application

Hearing of evidence before making of order

14 (1) If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one each of those Courts shall on being apprised of the proceedings in the other Court or Courts stay the proceedings before itself

Simultaneous proceedings in different Courts

(2) If the Courts are both or all subordinate to the same High Court they shall report the case to the High Court and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had

(3) In any other case in which proceedings are stayed under sub section (1) the Courts shall report the case through the Local Govern

(Chapter II — Appointment and Declaration of Guardians)

ment to the Governor General in Council and the Governor General in Council shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had

Appointment
or declaration
of several
guardians.

15 (1) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property or both the Court may if it thinks fit appoint or declare them

(2) On the death of a father being an European British subject who has by will or other instrument to take effect on his death appointed a guardian of his minor child the Court may appoint the mother to be guardian of the child jointly with the guardian appointed by the father

(3) On the death of a mother being an European British subject who during the incapacity of the father of her minor child has by will or other instrument to take effect on her death appointed a guardian of the child the Court may if the father becomes capable of acting appoint him to be sole guardian of the child or guardian of the child jointly with the guardian appointed by the mother as it thinks fit

(4) Separate guardians may be appointed or declared of the person and of the property of a minor

(5) If a minor has several properties the Court may if it thinks fit appoint or declare a separate guardian for any one or more of the properties

Appointment
or declaration
of guardian
for property
beyond juris-
diction of the
Court

16 If the Court appoints or declares a guardian for any property situate beyond the local limits of its jurisdiction the Court having jurisdiction in the place where the property is situate shall on production of a certified copy of the order appointing or declaring the guardian accept him as duly appointed or declared and give effect to the order

Matters to
be considered
by the Court
in appointing
guardian.

17 (1) In appointing or declaring the guardian of a minor the Court shall subject to the provisions of this section be guided by what consistently with the law to which the minor is subject appears in the circumstances to be for the welfare of the minor

(2) In considering what will be for the welfare of the minor the Court shall have regard to the age sex and religion of the minor the character and capacity of the proposed guardian and his nearness of kin to the minor the wishes if any, of a deceased parent and any existing or previous relations of the proposed guardian with the minor or his property

(3) If the minor is old enough to form an intelligent preference the Court may consider that preference

(4) As between parents who are European British subjects adversely claiming the guardianship of the person neither parent is entitled to it as of right but other things being equal if the minor is a male of

(Chapter II — Appointment and Declaration of Guardians Chapter
III — Duties, Rights and Liabilities of Guardians)

tender years or a female the minor should be given to the mother, and if the minor is a male of an age to require education and preparation for labour and business then to the father

(5) The Court shall not appoint or declare any person to be a guardian against his will

18 Where a Collector is appointed or declared by the Court in virtue of his office to be guardian of the person or property or both of a minor, the order appointing or declaring him shall be deemed to authorise and require the person for the time being holding the office to act as guardian of the minor with respect to his person or property or both as the case may be

Appointment or declaration of Collector in virtue of office

19 Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the property of a minor whose property is under the superintendence of a Court of Wards or to appoint and declare a guardian of the person—

Guardian not to be appointed by the Court in certain cases

(a) of a minor who is a married female and whose husband is not, in the opinion of the Court unfit to be guardian of her person or,

(b) subject to the provisions of this Act with respect to European British subjects of a minor whose father is living and is not in the opinion of the Court unfit to be guardian of the person of the minor or

(c) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor

CHAPTER III

DUTIES RIGHTS AND LIABILITIES OF GUARDIANS

General

20 (1) A guardian stands in a fiduciary relation to his ward and, save as provided by the will or other instrument if any by which he was appointed, or by this Act he must not make any profit out of his office

Fiduciary relation of guardian to ward.

(2) The fiduciary relation of a guardian to his ward extends to and affects purchases by the guardian of the property of the ward and by the ward of the property of the guardian immediately or soon after the ward has ceased to be a minor and generally all transactions between them while the influence of the guardian still lasts or is recent

(Chapter II — Appointment and Declaration of Guardians)

ment to the Governor General in Council, and the Governor General in Council shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had

Appointment
or declaration
of several
guardians.

15 (1) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property or both the Court may if it thinks fit appoint or declare them

(2) On the death of a father being an European British subject who has by will or other instrument to take effect on his death appointed a guardian of his minor child the Court may appoint the mother to be guardian of the child jointly with the guardian appointed by the father

(3) On the death of a mother, being an European British subject who during the incapacity of the father of her minor child has by will or other instrument to take effect on her death appointed a guardian of the child the Court may if the father becomes capable of acting appoint him to be sole guardian of the child or guardian of the child jointly with the guardian appointed by the mother as it thinks fit

(4) Separate guardians may be appointed or declared of the person and of the property of a minor

(5) If a minor has several properties the Court may if it thinks fit appoint or declare separate guardian for any one or more of the properties

Appointment
or declaration
of guardian
for property
beyond juris-
diction of the
Court

16 If the Court appoints or declares a guardian for any property situate beyond the local limits of its jurisdiction the Court having jurisdiction in the place where the property is situate shall on production of a certified copy of the order appointing or declaring the guardian accept him as duly appointed or declared and give effect to the order

Matters to
be considered
by the Court
in appointing
guardian.

17 (1) In appointing or declaring the guardian of a minor the Court shall subject to the provisions of this section be guided by what consistently with the law to which the minor is subject appears in the circumstances to be for the welfare of the minor

(2) In considering what will be for the welfare of the minor the Court shall have regard to the age sex and religion of the minor the character and capacity of the proposed guardian and his nearness of kin to the minor, the wishes if any of a deceased parent and any existing or previous relations of the proposed guardian with the minor or his property

(3) If the minor is old enough to form an intelligent preference the Court may consider that preference

(4) As between parents who are European British subjects adversely claiming the guardianship of the person neither parent is entitled to it as of right but other things being equal if the minor is a male of

(Chapter II—Appointment and Declaration of Guardians of Persons
III—Duties, Rights and Liabilities of Guardians)

tender years or a female, the minor should be given to the mother and if the minor is a male of an age to require education and preparation for labour and business then to the father

(5) The Court shall not appoint or declare any person to be a guardian against his will

18 Where a Collector is appointed or declared by the Court in virtue of this Act his office to be guardian of the person or property or both, of a minor, the order appointing or declaring him shall be deemed to authorise him to require the person for the time being holding the office to act as guardian of the minor with respect to his person or property or both as the Court may be

19 Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the property of a minor whose property is under the superintendence of a Court of Wards or to appoint and declare a guardian of the person—

- (a) of a minor who is a married female and whose husband is not, in the opinion of the Court unfit to be guardian of her person, or,
- (b) subject to the provisions of this Act with respect to European British subjects of a minor whose father is living and is not in the opinion of the Court unfit to be guardian of the person of the minor, or
- (c) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor

CHAPTER III

DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS

General

20 (1) A guardian stands in a fiduciary relation to his ward and, save as provided by the will or other instrument by which he was appointed, or by this Act he must not make any profit out of his office

(2) The fiduciary relation of a guardian to his ward extends to and affects purchases by the guardian of the property of the ward and by the ward of the property of the guardian immediately or soon after the ward has ceased to be a minor and generally all transactions between them while the influence of the guardian still lasts or is recent

(Chapter III—Duties, Rights and Liabilities of Guardians)

Capacity of
minors to
act as guard-
ians

21 A minor is incompetent to act as guardian of any minor except his own wife or child or where he is the managing member of an undivided Hindu family the wife or child of another minor member of that family

Remunera-
tion of guard-
ian

22 (1) A guardian appointed or declared by the Court shall be entitled to such allowance if any as the Court thinks fit for his care and pains in the execution of his duties

(2) When an officer of the Government as such officer is so appointed or declared to be guardian such fees shall be paid to the Government out of the property of the ward as the Local Government by general or special order directs

Control of
Collector as
guardian.

23 A Collector appointed or declared by the Court to be guardian of the person or property or both of a minor shall in all matters connected with the guardianship of his ward be subject to the control of the Local Government or of such authority as that Government, by notification in the official Gazette appoints in this behalf

*Guardian of the Person*Duties of
guardian of
the person

24 A guardian of the person of a ward is charged with the custody of the ward and must look to his support health and education and such other matters as the law to which the ward is subject requires

Title of
guardian to
custody of
ward

25 (1) If a ward leaves or is removed from the custody of a guardian of his person the Court if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian may make an order for his return and for the purpose of enforcing the order may cause the ward to be arrested and to be delivered into the custody of the guardian

(2) For the purpose of arresting the ward the Court may exercise the power conferred on a Magistrate of the first class by section 100 of the Code of Criminal Procedure 1882

(3) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship

26 (1) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by will or other instrument shall not without the leave of the Court by which he was appointed or declared remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed

(2) The leave granted by the Court under sub section (1) may be special or general and may be defined by the order granting it

¹ For instance of such order, see Ben R & O Vol II

² For notifications appointing authorities to whose control Collectors appointed under the Act shall be subject see different local Rules and Orders

³ See now the Code of Criminal Procedure 1898 (Act 5 of 1898)

(Chapter III—Duties, Rights and Liabilities of Guardians)

Guardian of Property

27. A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own, and, subject to the provisions of this Chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property.

Duties of guardian of property

28. Where a guardian has been appointed by will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise immovable property belonging to his ward is subject to any restriction which may be imposed by the instrument, unless he has under this Act been declared guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order.

Powers of testamentary guardian.

29. Where a person other than a Collector or than a guardian appointed by will or other instrument has been appointed or declared by the Court to be guardian of the property of a ward he shall not without the previous permission of the Court—

Limitation of powers of guardian of property appointed or declared by the Court

(a) mortgage or charge, or transfer by sale, gift exchange or otherwise, any part of the immovable property of his ward or

(b) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

30. A disposal of immovable property by a guardian in contravention of either of the two last foregoing sections is voidable at the instance of any other person affected thereby.

Voidability of transfers made in contravention of section 28 or section 29

31. (1) Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward.

Practice with respect to permission to transfers under section 2

(2) The order granting the permission shall recite the necessity or advantage as the case may be describe the property with respect to which the act permitted is to be done and specify such conditions if any as the Court may see fit to attach to the permission and it shall be recorded, dated and signed by the Judge of the Court with his own hand or when from any cause he is prevented from recording the order with his own hand shall be taken down in writing from his dictation and be dated and signed by him.

(3) The Court may in its discretion attach to the permission the following among other conditions namely—

(a) that a sale shall not be completed without the sanction of the Court,

(Chapter III—Duties Rights and Liabilities of Guardians)

- (b) that a sale shall be made to the highest bidder by public auction before the Court or some person specially appointed by the Court for that purpose at a time and place to be specified by the Court after such proclamation of the intended sale as the Court subject to any rules made under this Act by the High Court, directs
- (c) that a lease shall not be made in consideration of a premium or shall be made for such term of years and subject to such rents and covenants as the Court directs
- (d) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian to be disbursed therefrom or to be invested by the Court on prescribed securities or to be otherwise disposed of as the Court directs

(4) Before granting permission to a guardian to do an act mentioned in section 29 the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should in its opinion receive notice thereof and shall hear and record the statement of any person who appears in opposition to the application

Variation of powers of guardian of property appointed or declared by the Court

32 Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector the Court may from time to time by order define restrict or extend his powers with respect to the property of the ward in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject

Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.

33 (1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him for its opinion, advice or direction on any present question respecting the management or administration of the property of his ward

(2) If the Court considers the question to be proper for summary disposal it shall cause a copy of the petition to be served on and the hearing thereof may be attended by such of the persons interested in the application as the Court thinks fit

(3) The guardian stating in ¹ good faith the facts in the petition and acting upon the opinion advice or direction given by the Court shall be deemed so far as regards his own responsibility to have performed his duty as guardian in the subject matter of the application

Obligations on guardian of property appointed or declared by the Court

34 Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector he shall —

(a) if so required by the Court give a bond as nearly as may be in

¹ See s. 3 (20) of the General Clauses Act, 1897 (10 of 1897)

² For instance of ratifications issued under this section see Bom. R. 10

(Chapter III — Duties, Rights and Liabilities of Guardians.)

the prescribed form, to the Judge of the Court to enure for the benefit of the Judge for the time being, with or without sureties, as may be prescribed, engaging duly to account for what he may receive in respect of the property of the ward,

(b) if so required by the Court, deliver to the Court, within six months from the date of his appointment or declaration by the Court or within such other time as the Court directs, a statement of the immoveable property belonging to the ward and of the money and other moveable property which he has received on behalf of the ward up to the date of delivering the statement and of the debts due on that date to or from the ward

(c) if so required by the Court exhibit his accounts in the Court at such times and in such form as the Court from time to time directs

(d) if so required by the Court pay into the Court at such time as the Court directs the balance due from him on those accounts, or so much thereof as the Court directs and

(e) apply for the maintenance education and advancement of the ward and of such persons as are dependent on him and for the celebration of ceremonies to which the ward or any of those persons may be a party such portion of the income of the property of the ward as the Court from time to time directs and if the Court so directs the whole or any part of that property

35 Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward the Court may on application made by petition and on being satisfied that the engagement of the bond has not been kept and upon such terms as to security or providing that any money received be paid into the Court or otherwise as the Court thinks fit assign the bond to some proper person who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court and shall be entitled to recover thereon as trustee for the ward in respect of any breach thereof

Suit against guardian where administration bond was taken.

36 (1) Where a guardian appointed or declared by the Court has not given a bond as aforesaid any person with the leave of the Court may, as next friend at any time during the continuance of the minority of the ward and upon such terms as aforesaid institute a suit against the guardian or in case of his death against his representative for an account of what the guardian has received in respect of the property of the ward and may recover in the suit as trustee for the ward, such

Suit against guardian where administration bond was not taken

(Chapter III — Duties, Rights and Liabilities of Guardians)

amount as may be found to be payable by the guardian or his representative, as the case may be

(2) The provisions of sub-section (1) shall, so far as they relate to a suit against a guardian, be subject to the provisions of section 440 of the Code of Civil Procedure as amended by this Act ¹

XIV

General
liability of
guardian
as trustee

37 Nothing in either of the two last foregoing sections shall be construed to deprive a ward or his representative of any remedy against his guardian, or the representative of the guardian, which, not being expressly provided in either of those sections any other beneficiary or his representative would have against his trustee or the representative of the trustee

Termination of Guardianship

Right of
survivorship
among joint
guardians

38 On the death of one of two or more joint guardians the guardianship continues to the survivor or survivors until a further appointment is made by the Court

Removal of
guardian

39 The Court may on the application of any person interested or of its own motion remove a guardian appointed or declared by the Court, or a guardian appointed by will or other instrument for any of the following causes namely —

- (a) for abuse of his trust,
- (b) for continued failure to perform the duties of his trust
- (c) for incapacity to perform the duties of his trust
- (d) for ill treatment or neglect to take proper care of his ward,
- (e) for contumacious disregard of any provision of this Act or of any order of the Court,
- (f) for conviction of an offence implying, in the opinion of the Court a defect of character which unfits him to be the guardian of his ward,
- (g) for having an interest adverse to the faithful performance of his duties,
- (h) for ceasing to reside within the local limits of the jurisdiction of the Court,
- (i) in the case of a guardian of the property, for bankruptcy or insolvency,
- (j) by reason of the guardianship of the guardian ceasing, or being liable to cease under the law to which the minor is subject

¹ See now Order XXXII rules 1 and 4 (2) in the First Schedule to the Code of Civil Procedure 1908 (Act 5 of 1908)

(Chapter III—Duties, Rights and Liabilities of Guardians)

Provided that a guardian appointed by will or other instrument, whether he has been declared under this Act or not shall not be removed—

(a) for the cause mentioned in clause (g) unless the adverse interest accrued after the death of the person who appointed him, or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or

(b) for the cause mentioned in clause (h) unless such guardian has taken up such a residence as, in the opinion of the Court renders it impracticable for him to discharge the functions of guardian

40 (1) If a guardian appointed or declared by the Court desires to resign his office he may apply to the Court to be discharged

Discharge of guardian

(2) If the Court finds that there is sufficient reason for the application it shall discharge him and if the guardian making the application is the Collector and the Local Government approves of his applying to be discharged, the Court shall in any case discharge him

41 (1) The powers of a guardian of the person cease—

Cessation of authority of guardian

(a) by his death removal or discharge

(b) by the Court of Wards assuming superintendence of the person of the ward

(c) by the ward ceasing to be a minor

(d) in the case of a female ward by her marriage to a husband who is not unfit to be guardian of her person or if the guardian was appointed or declared by the Court by her marriage to a husband who is not in the opinion of the Court so unfit or

(e) in the case of a ward whose father was unfit to be guardian of the person of the ward by the father ceasing to be so or if the father was deemed by the Court to be so unfit by his ceasing to be so in the opinion of the Court

(2) The powers of a guardian of the property cease—

(a) by his death removal or discharge

(b) by the Court of Wards assuming superintendence of the property of the ward or

(c) by the ward ceasing to be a minor

(3) When for any cause the powers of a guardian cease the Court may require him or, if he is dead his representative to deliver as it directs any property in his possession or control belonging to the ward

(Chapter III—Duties, Rights and Liabilities of Guardians Chapter
IV—Supplemental Provisions)

or any accounts in his possession or control relating to any past or present property of the ward

(4) When he has delivered the property or accounts as required by the Court the Court may declare him to be discharged from his liabilities save as regards any fund which may subsequently be discovered

Appointment
of successor
to guardian
dead dis-
charged or
removed

42 When a guardian appointed or declared by the Court is discharged, or, under the law to which the ward is subject, ceases to be entitled to act or when any such guardian or a guardian appointed by will or other instrument is removed or dies the Court of its own motion or on application under Chapter II may, if the ward is still a minor, appoint or declare another guardian of his person or property, or both, as the case may be

CHAPTER IV

SUPPLEMENTAL PROVISIONS

Orders for
regulating
conduct or
proceedings
of guardians
and enforce-
ment of those
orders

43 (1) The Court may on the application of any person interested or of its own motion make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court

(2) Where there are more guardians than one of a ward, and they are unable to agree upon a question affecting his welfare any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit

(3) Except where it appears that the object of making an order under sub section (1) or sub section (2) would be defeated by the delay, the Court shall before making the order, direct notice of the application therefor or of the intention of the Court to make it, as the case may be, to be given, in a case under sub section (1), to the guardian or, in a case under sub section (2) to the guardian who has not made the application

(4) In case of disobedience to an order made under sub section (1) or sub section (2), the order may be enforced in the same manner as an injunction granted under ¹ section 492 or section 493 of the Code of Civil Procedure in a case under sub section (1) as if the ward were the plaintiff and the guardian were the defendant or, in a case under sub section (2) as if the guardian who made the application were the plaintiff and the other guardian were the defendant XIV of 1

(5) Except in a case under sub section (2) nothing in this section shall apply to a Collector who is as such a guardian

Penalty for
removal of
ward from
jans bction.

44 If for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward a guardian appointed or declared by the Court removes the ward from the limits of the

¹ See now Order XXXIX rules 1 and 2 in the First Schedule to the Code of Civil Procedure 1908 (Act 5 of 1908)

(Chapter II —Supplemental Provisions)

jurisdiction of the Court in contrivention of the provisions of section 26 he shall be liable, by order of the Court to fine not exceeding one thousand rupees, or to imprisonment in the civil jail for a term which may extend to six months

45 (1) In the following cases namely —

Penalty for
contumacy

- (a) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12 sub section (1), or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under section 25, sub section (1), or
- (b) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (b) of section 34 a statement required under that clause, or to exhibit accounts in compliance with a requisition under clause (c) of that section or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (d) of that section or
- (c) if a person who has ceased to be a guardian or the representative of such a person fails to deliver any property or accounts in compliance with a requisition under section 41 sub section (3),

the person, guardian or representative as the case may be shall be liable by order of the Court to fine not exceeding one hundred rupees and in case of recusancy to further fine not exceeding ten rupees for each day after the first during which the default continue and not exceeding five hundred rupees in the aggregate and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced or to compel his return or to deliver the statement or to exhibit the accounts or to pay the balance or to deliver the property or accounts as the case may be

(2) If a person who has been released from detention on giving an undertaking under sub section (1) fails to carry out the undertaking within the time allowed by the Court the Court may cause him to be arrested and re committed to the civil jail

46 (1) The Court may call upon the Collector or upon any Court subordinate to the Court for a report on any matter arising in any proceeding under this Act and treat the report as evidence

Reports by
Collectors
and Sub
ordinate
Courts

(2) For the purpose of preparing the report the Collector or the Judge of the subordinate Court as the case may be shall make such inquiry as he deems necessary and may for the purpose of the inquiry exercise any power of compelling the attendance of a witness to give evidence or

(Chapter IV—Supplemental Provisions)

produce a document which is conferred on a Court by the ¹Code of Civil Procedure

Orders appealable

47 An appeal shall lie to the High Court from an order made by a Court,—

- (a) under section 7 appointing or declaring or refusing to appoint or declare a guardian or
- (b) under section 9, sub section (3) returning an application, or,
- (c) under section 25 making or refusing to make an order for the return of a ward to the custody of his guardian or,
- (d) under section 26 refusing leave for the removal of a ward from the limits of the jurisdiction of the Court, or imposing conditions with respect thereto or
- (e) under section 28 or section 29 refusing permission to a guardian to do an act referred to in the section or
- (f) under section 32 defining restricting or extending the powers of a guardian or
- (g) under section 39 removing a guardian or
- (h) under section 40 refusing to discharge a guardian, or
- (i) under section 43 regulating the conduct or proceedings of a guardian or settling a matter in difference between joint guardians or enforcing the order or
- (j) under section 44 or section 45 imposing a penalty

Finality of other orders

48 Save as provided by the last foregoing section and by ²section 622 of the Code of Civil Procedure an order made under this Act shall be final and shall not be liable to be contested by suit or otherwise

Costs.

49 The costs of any proceeding under this Act including the costs of maintaining a guardian or other person in the civil jail shall, subject to any rules made by the High Court under this Act be in the discretion of the Court in which the proceeding is had

Power of High Court to make rules.

50 (1) In addition to any other power to make rules conferred expressly or impliedly by this Act the High Court may from time to time make rules consistent with this Act—

- (a) as to the matters respecting which and the time at which reports should be called for from Collectors and subordinate Courts,

¹ See now Act 5 of 1903

² The word District was omitted by s. 4 of Act 4 of 1926

³ See now s. 11^a of the Code of Civil Procedure 1908 (Act 5 of 1908)

(Chapter IV—Supplemental Provisions)

- (b) as to the allowances to be granted to and the security to be required from guardians and the cases in which such allowances should be granted,
- (c) as to the procedure to be followed with respect to applications of guardians for permission to do acts referred to in sections 28 and 29,
- (d) as to the circumstances in which such requisitions as are mentioned in clauses (a) (b) (c) and (d) of section 34 should be made
- (e) as to the preservation of statements and accounts delivered and exhibited by guardians
- (f) as to the inspection of those statements and accounts by persons interested,
- (g) as to the custody of moneys and securities for moneys, belonging to wards
- (h) as to the securities on which money belonging to wards may be invested
- (i) as to the education of wards for whom guardians not being Collectors have been appointed or declared by the Court and
- (j) generally for the guidance of the Courts in carrying out the purposes of this Act

(2) Rules under clauses (a) and (i) of sub-section (1) shall not have effect until they have been approved by the Local Government nor shall any rule under this section have effect until it has been published in the official Gazette

51 A guardian appointed by or holding a certificate of administration from a Civil Court under any enactment repealed by this Act shall save as may be prescribed be subject to the provisions of this Act, and of the rules made under it as if he had been appointed or declared by the Court under Chapter II

Applicability of Act to guardians already appointed by Court

52 In section 3 of the Indian Majority Act 1875 for the words "every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice and every minor under the jurisdiction of any Court of Wards the following shall be substituted namely—

Amendment of Indian Majority Act

"every minor of whose person or property a both a guardian other than a guardian for a suit within the meaning of Chapter XXXI of the Code of Civil Procedure has been or shall be appointed or declared

¹ See now Order XXXII in the First Schedule to the Code of Civil Procedure 1908 (Act 5 of 1908)

(Chapter IV—Supplemental Provisions)

by any Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age ”

53. [Amendment of Chapter XXXI of the Code of Civil Procedure]
Rep., Act V of 1903

THE SCHEDULE

ENACTMENTS REPEALED.

(See section 2)

Number and year	Title or subject	Extent of repeal
<i>Acts of the Governor General in Council</i>		
XIV of 1858	Minors (Madras)	The whole
XL of 1858	Minors (Bengal)	So much as has not been repealed
IX of 1861	Minors	The whole
XX of 1864	Minors (Bombay)	The whole
*XIV of 1869	Bombay Civil Courts Act 1869	So much of the last paragraph of section 16 as has not been repealed
VII of 1870	Court fees Act 1870	Section 19H and article 10 of Schedule I
*IV of 1872	Punjab Laws Act, 1872	So far as it relates to Act XL of 1853
*XIX of 1873	North Western Provinces Land revenue Act, 1873	Section 2-6
XIII of 1874	European British Minors Act 1874	The whole
XV of 1874	Laws Local Extent Act 1874	So far as it relates to any enactment replaced by this Act
*XX of 1875	Central Provinces Laws Act 1875	So far as it relates to Act XL of 1853
*XVIII of 1876	Oudh Laws Act 1876	So far as it relates to Act XI of 1853
*XIII of 1879	Oudh Civil Courts Act 1879	Clause (1) of section 20 relating to proceedings under Acts XL of 1858 and IX of 1861

¹ Bom. Code

² P. & N.-W. F. Code

³ Since entirely rep. by the U. P. Land-revenue Act 1901 (U. P. Act 3 of 1901) U. P. Code

⁴ C. P. Code

⁵ U. P. Code

THE SCHEDULE—continued.

Number and year	Title or subject	Extent of repeal
<i>Acts of the Governor General in Council—contd</i>		
'XIV of 1882	Code of Civil Procedure . . .	The second paragraph of section 413
'XVIII of 1884	Panjab Courts Act 1884	So much of section 29 as has not been repealed
" " " " "	" " " " "	" " " " "
'XII of 1887	General North Western Provinces and Assam Civil Courts Act 1887	Clause (b) of section 23 sub-section (2)
" " " " "	" " " " "	" " " " "
<i>Madras Regulations</i>		
'V of 1804	Court of Wards	Section 20 and so much of sections 21 and 22 as relates to persons and property of minors not subject to the superintendence of the Court of Wards
'X of 1831	Minors Estates . . .	Section 3
<i>Regulations under the Statute 31 Victoria, Chapter 3</i>		
'IX of 1874	Arakan Hill District Laws	So far as it relates to Acts XL of 1856 and IV of 1861

THE INDIAN RAILWAYS ACT, 1890

CONTENTS

CHAPTER I

PRELIMINARY

SECTIONS

- 1 Title, extent and commencement
- 2 Repeal
- 3 Definitions

¹ Since entirely repealed by Act of 1906.
² P. & N. W. F. C.
³ Act 17 of 1883 was repealed by Central Provinces Court of Wards Act 1890, 21 of 1890.
 C. P. Code
⁴ Assam Code
⁵ For General North Western Provinces and Assam Civil Courts Act 1887 now read General Agra and Assam Civil Courts Act 1887 Assam Code.
⁶ The entry relating to Act II of 1889 was repealed by the Lower Provinces Courts Act 1890 (6 of 1900) Bur. Code.
⁷ Since entirely repealed by the Madras Court of Wards Act 1902 Mad. Act 2 of 1902 Mad. Code.
⁸ Mad. Code.
 Legislation of 1874 was repealed by Provision 1 of 1906.

(Chapter IV—Supplemental Provisions.)

by any Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age”

53. [Amendment of Chapter XXXI of the Code of Civil Procedure]
Rep, Act V of 1903

THE SCHEDULE

ENACTMENTS REPEALED.

(See section 2)

Number and year	Title or subject	Extent of repeal
<i>Acts of the Governor General in Council</i>		
XIV of 1858	Minors (Madras)	The whole
XL of 1858	Minors (Bengal)	So much as has not been repealed
IX of 1861	Minors	The whole
XX of 1861	Minors (Bombay)	The whole
XIV of 1869	Bombay Civil Courts Act 1869	So much of the last paragraph of section 16 as has not been repealed
VII of 1870	Court fees Act 1870	Section 19H and article 10 of Schedule I
IV of 1872	Punjab Laws Act, 1872	So far as it relates to Act XL of 1858
XXIX of 1873	North Western Provinces Land revenue Act 1873	Section 25b
XIII of 1874	European British Minors Act 1874	The whole
XV of 1874	Laws Local Extent Act 1874	So far as it relates to any enactment replaced by this Act
XX of 1875	Central Provinces Laws Act 1875	So far as it relates to Act XI of 1858
XVIII of 1876	Oudh Laws Act 1876	So far as it relates to Act XI of 1858
XIII of 1879	Oudh Civil Courts Act, 1879	Clause (1) of section 25 relating to proceedings under Acts XL of 1858 and IX of 1861

¹ Rom Code² P & N-W F Code³ Since entirely rep. by the U P. Land revenue Act 1901 (U P Act 3 of 1901) U P Code⁴ C P Code⁵ U P. Code

THE SCHEDULE—continued

Number and year	Title or subject	Extent of repeal
<i>Acts of the Governor General in Council—contd</i>		
'XIV of 1857	Code of Civil Procedure	The second paragraph of section 413
'XVIII of 1854	Punjab Courts Act 1854	So much of section 29 as has not been repealed
" " " " "	" " " " "	" " " " "
'XII of 1857	Bengal North Western Provinces and Assam Civil Courts Act 1857	Clause (b) of section 23 sub section (?)
" " " " "	" " " " "	" " " " "
<i>Madras Regulations</i>		
'V of 1804	Court of Wards	Section 20 and so much of sections 21 and 22 as relates to persons and property of minors not subject to the superintendence of the Court of Wards
'X of 1831	Minors Estates	Section 3
<i>Regulations under the Statute 31 Victoria, Chapter 3</i>		
'IX of 1871	Arakan Hill District Laws	So far as it relates to Acts XL of 1858 and IX of 1861

THE INDIAN RAILWAYS ACT, 1890

CONTENTS

CHAPTER I

PRELIMINARY

SECTIONS

- 1 Title, extent and commencement
- 2 Repeal
- 3 Definitions

¹ Since entirely repealed by Act 1 of 1900
² P. & N. W. F. P.
³ Act 17 of 1850 as amended by Act 1 of 1871
⁴ C. P. Code
⁵ As an Code
⁶ For Bengal North Western Provinces and Assam Civil Courts Act 1857 now repealed
⁷ Bengal Agra and Assam Civil Courts Act 1858
⁸ The entry relating to Act 11 of 1859 as amended by the Lower Punjab Courts Act 1900 (3 of 1900) Bur Code
⁹ Since entirely repealed by the Madras Court of Wards Act 1902 (Mad Act 2 of 1902) Mad Code
¹⁰ Mad Code
¹¹ Regulation 9 of 1871 was repealed by Government of 1910

CHAPTER II

INSPECTION OF RAILWAYS

SECTIONS

- 4 Appointment and duties of Inspector
- 5 Powers of Inspectors
- 6 Facilities to be afforded to Inspectors

CHAPTER III

CONSTRUCTION AND MAINTENANCE OF WORKS

- 7 Authority of railway administrations to execute all necessary works
- 8 Alteration of pipes, wires and drains
- 9 Temporary entry upon land for repairing or preventing accident
- 10 Payment of compensation for damage caused by lawful exercise of powers under section 7 8 or 9
- 11 Accommodation works
- 12 Power for owner occupier or local authority to cause additional accommodation works to be made
- 13 Fences screens gates and bars
- 14 Over and under bridges
- 15 Removal of trees dangerous to or obstructing the working of a railway

CHAPTER IV

OPENING OF RAILWAYS

- 16 Right to use locomotives
- 17 Notice of intended opening of a railway
- 18 Sanction of the Government a condition precedent to the opening of a railway
- 19 Procedure in sanctioning the opening of a railway
- 20 Application of the provisions of the three last foregoing sections to material alterations of a railway
- 21 Exceptional provision

SECTIONS

- 22 Power to make rule with respect to the opening of railways
- 23 Power to close an opened railway
- 24 Re opening of a closed railway
- 25 Delegation of powers under this Chapter to Inspectors

CHAPTER V

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES

Railway Commissions

- 26 Constitution of Railway Commission
- 27 Restriction of jurisdiction of Railway Commission to cases specially referred
- 28 Reference of cases to Railway Commission
- 29 Constitution of Railway Commission in session
- 30 Powers of Railway Commission
- 31 Appeals from orders of Railway Commission
- 32 Operation of orders of Railway Commission
- 33 Assessors
- 34 Power of the Governor General in Council to make rules for the purposes of this Chapter
- 35 Costs of proceedings under this Chapter
- 36 Execution of orders of Railway Commission and High Court
- 37 Evidence of documents
- 38 Submission to the Governor General in Council of special reports by Railway Commission
- 39 Dissolution of Railway Commission
- 40 Finality of orders of Railway Commission subject to the foregoing provisions of this Chapter
- 41 Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission

Traffic Facilities

- 42 Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality
- 43 Undue preference in case of unequal rates for like traffic or services

SECTION 15

- 44 Provision for facilities and equal treatment where ships or boats are used which are not part of a railway
- 45 Terminals
- 46 Power of Railway Commission to fix terminals

CHAPTER VI

WORKING OF RAILWAYS

General

- 47 General rules
- 48 Disposal of difference between railways regarding conduct of joint traffic
- 49 Agreements with the Governor General in Council for construction or lease of rolling stock
- 50 Powers of railway companies to enter into working agreements
- 51 Establishment of ferries and roadways for accommodation of traffic
- 52 Returns

Carriage of Property

- 53 Maximum load for wagons
- 54 Power for railway administrations to impose conditions for working traffic
- 55 Lien for rates terminals and other charges
- 56 Disposal of abandoned things on a railway
- 57 Power for railway administrations to require indemnity on delivery of goods in certain cases
- 58 Regulations for written accounts of description of goods
- 59 Dangerous or offensive goods
- 60 Information to the public of authority for quoted rates
- 61 Requisition on railway administrations for details of gross charges

Carriage of Passengers

- 62 Communication between passengers and railway servants in charge of trains
- 63 Maximum number of passengers for each compartment

SECTIONS.

- 64. Reservation of compartments for females
- 65. Exhibition of time-tables and tables of fares at stations.
- 66. Supply of tickets on payment of fares.
- 67. Provision for case in which tickets have been issued for trains not having room available for additional passengers
- 68. Prohibition against travelling without pass or ticket.
- 69. Exhibition and surrender of passes and tickets
- 70. Return and season tickets
- 71. Power to refuse to carry persons suffering from infectious or contagious disorder.

CHAPTER VII

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS

- 72. Measure of the general responsibility of a railway administration as a carrier of animals and goods
- 73. Further provision with respect to the liability of a railway administration as a carrier of animals
- 74. Further provision with respect to the liability of a railway administration as a carrier of luggage
- 75. Further provision with respect to the liability of a railway administration as a carrier of articles of special value
- 76. Burden of proof in suits in respect of loss of animals or goods
- 77. Notification of claims to refunds of overcharges and to compensation for losses
- 78. Exoneration from responsibility in case of goods falsely described.
- 79. Settlement of compensation for injuries to officers, soldiers, airmen and followers on duty
- 80. Suits for compensation for injury to through-booked traffic.
- 81. [*Repealed*]
- 82. Limitation of liability of railway administration in respect of accidents at sea

CHAPTER VIII

ACCIDENTS.

- 83. Report of railway accidents.

SECTIONS

- 84 Power to make rules regarding notices of and inquiries into accidents
- 85 Submission of return of accidents
- 86 Provision for compulsory medical examination of person injured in railway accident

CHAPTER IX

PENALTIES AND OFFENCES

Forfeitures by Railway Companies

- 87 Penalty for default in compliance with requisition under section 13
- 88 Penalty for contravention of section 16, 18, 19, 20, 21 or 24
- 89 Penalty for not having certain documents kept or exhibited at stations under section 47 54 or 65
- 90 Penalty for not making rules as required by section 47
- 91 Penalty for failure to comply with decision under section 48
- 92 Penalty for delay in submitting returns under section 52 or 85
- 93 Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling-stock
- 94 Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants
- 95 Penalty for failure to reserve compartments for females under section 64
- 96 Penalty for omitting to give the notices of accidents required by section 83 and under section 84
- 97 Recovery of penalties
- 98 Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter

Offences by Railway Servants

- 99 Breach of duty imposed by section 66
- 100 Drunkenness
- 101 Endangering the safety of persons
- 102 Compelling passengers to enter carriages already full

SECTIONS

- 103 Omission to give notice of accident
- 104 Obstructing level crossings
- 105 False returns

Other Offences

- 106 Giving false account of goods
- 107 Unlawfully bringing dangerous or offensive goods upon a railway
- 108 Needlessly interfering with means of communication in a train
- 109 Entering compartment reserved or already full or resisting entry into a compartment not full
- 110 Smoking
- 111 Defacing public notices
- 112 Fraudulently travelling or attempting to travel without proper pass or ticket
- 113 Travelling without pass or ticket or with insufficient pass or ticket or beyond authorized distance
- 114 Transferring any half of return ticket
- 115 Disposal of fines under the two last foregoing sections
- 116 Altering or defacing pass or ticket
- 117 Being or suffering person to travel on railway with infectious or contagious disorder
- 118 Entering carriage in motion or otherwise improperly travelling on a railway
- 119 Entering carriage or other place reserved for females
- 120 Drunkenness or nuisance on a railway
- 121 Obstructing railway servant in his duty
- 122 Trespass and refusal to desist from trespass
- 123 Disobedience of omnibus drivers to directions of railway servants
- 124 Opening or not properly shutting gates
- 125 Cattle trespass
- 126 Maliciously wrecking or attempting to wreck a train
- 127 Maliciously hurting or attempting to hurt persons travelling by railway
- 128 Endangering safety of persons travelling by railway by wilful act or omission
- 129 Endangering safety of persons travelling by railway by rash or negligent act or omission

SECTIONS

- 130 Special provision with respect to the commission by children of acts endangering safety of persons travelling by railway

Procedure

- 131 Arrest for offences against certain sections
 132 Arrest of persons likely to abscond or unknown
 133 Magistrates having jurisdiction under Act
 134 Place of trial

CHAPTER V

SUPPLEMENTAL PROVISIONS

- 135 Taxation of railways by local authorities
 136 Restriction on execution against railway property
 137 Railway servants to be public servant for the purposes of Chapter IX of the Indian Penal Code
 138 Liability for loss or injury to railway administration of property detained by railway servant
 139 Mode of signifying communications from the Governor General in Council
 140 Service of notices on railway administrations
 141 Service of notices by railway administrations
 142 Presumption where notice is served by post
 143 Provisions with respect to rules
 144 Delegation of powers of Governor General in Council
 145 Representation of Managers and Agents of Railways in Courts
 146 Power to extend Act to steam tramways
 147 Power to exempt railways from Act
 148 Matters supplemental to the definitions of "railway" and "railway servant"
 149 Amendment of the Indian Penal Code
 150 Amendment of the Sindh Pishun Railway Act, 1887

THE FIRST SCHEDULE —INSTRUCTIONS RELATED

THE SECOND SCHEDULE —ARTICLES TO BE DECLARED AND INSURED

(Chapter I—Preliminary)

ACT No IX OF 1890.¹

[21st March, 1890]

An Act to consolidate, amend and add to the law relating to Railways in India

WHEREAS it is expedient to consolidate amend and add to the law relating to railways in India, It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1 (1) This Act may be called the Indian Railways Act, 1890

Title, extent
and com-
mencement.

(2) It extends to the whole of British India, inclusive ^{2*} * * * * *
(in so far as it has been or may be extended under the provisions of the
³Sindh Pishin Railway Act 1887) of British Baluchistan and applies
also to all subjects of Her Majesty within the dominions of Princes and
States in India in alliance with Her Majesty, and to all Native subjects
of Her Majesty, without and beyond British India and those dominions,
and

(3) It shall come into force on the first day of May, 1890

2 (1) On and from that day the enactments specified in the first sche- Repeal
dule are repealed to the extent mentioned in the third column thereof

¹For Statement of Objects and Reasons see Gazette of India 1888 Pt V p 133 for Report of the Select Committee see *ibid* 1890 Pt V p 23 and for debates in Council see *ibid* 1888 Pt VI p 124 and 137 and *ibid* 1890 Pt VI p 15 and 48

Act 9 of 1890 has been declared inoperative by notification under s 3 (a) of the Scheduled Districts Act 1874 (14 of 1874) in the following Scheduled Districts namely —

For a full and plain account of Affairs see Gazette of India 1890 Pt I p 506, the District of Hazaribagh Lohardigha (including at this time the present District of Palamu which was separated in 1894) and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum see *ibid* p 649

The District of Lohardigha is now called the Ranchi District see Calcutta Gazette 1891 Pt I p 44

It has been declared in force in the Southal Parganas by the Southal Parganas Settlement Regulation (3 of 1872) s 3 as amended by the Southal Parganas Justice and Laws Regulation 1899 (3 of 1899) See Pt II of the Schedule to the last named Regulation B & O Code Vol I

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1894 (13 of 1894) Bur Code

It was previously in force there *pro prio vigore*

The Railway Board Act 1903 (4 of 1903) is to be read with and taken as part of this Act see s 1 (2) of that Act

²The words of Upper Burma and were repealed by the Burma Laws Act, 1894 (13 of 1894) Bur Code

³Bil Code

⁴So much of this section as relates to the repeal of part of the Upper Burma Laws Act 1886 (20 of 1886) has been repealed by the Burma Laws Act, 1898 (13 of 1898), Bur Code

(Chapter I—Preliminary)

(2) But all rules, declarations and appointments made, sanctions and directions given forms approved, powers conferred and notifications published under any of those enactments or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved conferred and published under this Act

(3) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them, shall, so far as may be construed to refer to this Act or to the corresponding portion thereof

3 In this Act unless there is something repugnant in the subject or context,—

XI of 1886

(1) "tramway" means a tramway constructed under the India Tramways Act 1886 or any special Act relating to tramways

(2) "ferry" includes a bridge of boats, pontoons or rafts, a swing bridge, a flying bridge and a temporary bridge and the approaches to and landing places of a ferry

(3) "inland water" means any canal river, lake or navigable water in British India

(4) "railway" means a railway or any portion of a railway, for the public carriage of passengers animals or goods, and includes—

(a) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway,

(b) all lines of rails sidings or branches worked over for the purposes of, or in connection with a railway,

(c) all stations, offices, warehouses, wharves, workshops, manufacturing factories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway and

(d) all ferries ships boats and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to or are hired or worked by the authority administering the railway

(5) "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway

(6) "railway administration" or "administration," in the case of a railway administered by the Government or a Native State, means the manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company

¹ Of the Regulation of Railways Act, 1871 (34 and 35 Vict., c. 78), s. 2

(Chapter I—Preliminary Chapter II—Inspection of Railways)

(7) "railway servant" means any person employed by a railway administration in connection with the service of a railway

(8) "Inspector" means an Inspector of Railways appointed under this Act

(9)¹ "goods" includes inanimate things of every kind

(10)² "rolling stock" includes locomotive engines, tenders, carriages, wagons, trucks and trollies of all kinds

(11)³ "traffic" includes rolling-stock of every description, as well as passengers, animals and goods

(12) "through traffic" means traffic which is carried over the railways of two or more railway administrations

(13)² "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods

(14)⁴ "terminals" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes and other similar matters, and of any services rendered thereat

(15) "pass" means an authority given by a railway administration, or by an officer appointed by a railway administration in this behalf and authorizing the person to whom it is given to travel as a passenger on a railway gratuitously

(16) "ticket" includes a single ticket, a return ticket and a season ticket

(17) "maund" means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy and

(18)⁵ "Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act

CHAPTER II

INSPECTION OF RAILWAYS

4 * (1) The Governor General in Council may appoint persons, by name or by virtue of their office to be Inspectors of Railways

Appointment and duties of inspectors.

(2) The duties of an Inspector of Railways shall be—

(a) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to

¹ Cf. the Railways Clauses Act 1845 (8 & 9 Vict. c. 20) s. 3

, c. 50, s. 2

s. 1

s. 55

(10 of 1897)

3

section, see

(Chapter II — *Inspection of Railways* Chapter III — *Construction and Maintenance of Works*)

report thereon to the Governor General in Council as required by this Act

- (b) to make such periodical or other inspections of any railway or of any rolling stock used thereon as the Governor General in Council may direct
- (c) to make inquiry under this Act into the cause of any accident on a railway
- (d) to perform such other duties as are imposed on him by this Act, or any other enactment for the time being in force relating to railways

Powers of
Inspectors.

5¹ An Inspector shall for the purpose of any of the duties which he is required or authorized to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code and subject to the control of the Governor General in Council shall for that purpose have the following powers namely —

- (a) to enter upon and inspect any railway or any rolling stock used thereon
- (b) by an order in writing under his hand addressed to the railway administration to require the attendance before him of any railway servant and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration,
- (c) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect

Facilities to
be afforded
to Inspectors.

6 A railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act

CHAPTER III

CONSTRUCTION AND MAINTENANCE OF WORKS

Authority of
railway ad-
ministrations
to execute all
necessary
works.

7² (1) Subject to the provisions of this Act and, in the case of immovable property not belonging to the railway administration to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies and subject also in the case of a railway company to the provisions of any contract between the company and the Government a railway administration may, for the

¹ Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict. c. 78), s. 4

² Cf. the Railways Clauses Act 1845 (9 & 10 Vict. c. 20) s. 16

(Chapter III—Construction and Maintenance of Works)

purpose of constructing a railway or the accommodation or other works connected therewith and notwithstanding anything in any other enactment for the time being in force—

- (a) make or construct in, upon, across, under or over any lands, or any streets hills valleys roads railways or tramways, or any rivers canals brooks, streams or other waters, or any drains, water pipes, gas pipes or telegraph lines such temporary or permanent inclined planes arches, tunnels, culverts embankments aqueducts bridges, roads, ¹[lines of railway] ways passages, conduits drains, piers, cuttings and fences as the railway administration thinks proper,
- (b) alter the course of any rivers, brooks streams, or watercourses, for the purpose of constructing and maintaining tunnels, bridges passages or other works over or under them, and divert or alter as well temporarily as permanently, the course of any rivers brooks streams or watercourses or any road street way or cause way or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway as the railway administration thinks proper
- (c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway
- (d) erect and construct such houses warehouses, offices and other buildings and such yards, stations wharves engines, machinery apparatus and other works and conveniences as the railway administration thinks proper
- (e) alter, repair or discontinue such buildings works and conveniences as stores and or any of them and substitute others in their stead and
- (f) do all other acts necessary for making maintaining, altering or repairing and using the railway

(2) The exercise of the powers conferred on a railway administration by sub section (1) shall be subject to the control of the Governor General in Council

8 A railway administration may, for the purpose of exercising the powers conferred upon it by this Act alter the position of any pipe for the supply of gas water or compressed air or the position of any electric wire or of any drain not being a main drain Alteration of pipes, wires and drains.

Provided that—

- (a) when the railway administration desires to alter the position of any such pipe wire or drain it shall give reasonable

¹ These words were added by s. 1 of the Indian Railways Act (1890) Amendment Act 1896 (9 of 1896)

(Chapter III—Construction and Maintenance of Works)

notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is,

- (b) a local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be

Temporary
entry upon
land for re-
pairing or
preventing
accident

9² (1) The Governor General in Council may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the Governor General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety

Payment of
compensation
for damage
caused by
lawful exer-
cise of powers
under section
7, 8 or 9

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be, with the provisions

.. ¹ For definition of "local authority," see s 135 (5) of this Act and s 3 (28) of

Vict, c 55), s 14
the words and figures "with the
d sections 18 to 42, both inclusive,
sions of sections 57 and 58 of that
s 2 of the Indian Railways Act

(Chapter III.—Construction and Maintenance of Works.)

of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation].

11.¹ (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely.— Accommodation works

- (a) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and
- (b) all necessary arches, tunnels, culverts, drains, watercourses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be

(2) Subject to the other provisions of this Act, the work specified in clauses (a) and (b) of sub section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works

(3) The foregoing provisions of this section are subject to the following provisos, namely —

- (a) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made,

- (b)² save as hereinafter in this Chapter provided, a railway administration shall not except on the requisition of the Governor General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

¹ Cf. the Railways Clauses Act, 1845 (8 & 9 Vict. c. 20), s. 67

² Cf. *ibid.*, s. 78

(Chapter III—Construction and Maintenance of Works)

- (c) where a railway administration has provided suitable accommodation for the crossing of a road or stream and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof the administration shall not be compelled to provide other accommodation for the crossing of the road or stream

(4)¹ The Governor General in Council may appoint a time for the commencement of any work to be executed under sub-section (1) and if for fourteen days next after that time the railway administration fails to commence the work or having commenced it fails to proceed diligently to execute it in a sufficient manner the Governor General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof

12² If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land or if the Local Government or a local authority desire to construct a public road or other work across under or over a railway he or it as the case may be may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or on in case of difference of opinion may be authorized by the Governor General in Council

13 The Governor General in Council may require that, within a time to be specified in the requisition or within such further time as he may appoint in this behalf—

- (a) boundary marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith,

- (1)⁴ any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling stock moving on the railway

- (c)⁵ suitable gates chains bars stakes or hand rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level,

¹ Cf. the Railways Clauses Act 1863 (25 & 26 Vict. c. 20) s. 70

² Cf. *ibid.* s. 71

³ Cf. the Railway Regulation Act, 1867 (30 & 31 Vict. c. 50) s. 10

⁴ Cf. the Railways Clauses Act, 1847 (10 & 11 Vict. c. 20) s. 63

⁵ Cf. the Railway Regulation Act 1912 (26 & 27 Vict. c. 50) s. 9

Power for
own r accu
per or local
a thorty
cause all
t onal acco
modat on
works to be
ma

F cos
screen gates
and bars

(Chapter III—Construction and Maintenance of Works)

d) persons be employed by a railway administration to open and shut such gate chains or bars

14 (1) Where a railway administration has constructed a railway Over and under bridges
across a public road on the level the Governor General in Council may at any time if it appears to him necessary for the public safety require the railway administration within such time as he thinks fit to carry the road either under or over the railway by means of a bridge or arch with convenient ascents and descents and other convenient approaches instead of crossing the road on the level or to execute such other works as in the circumstance of the case may appear to the Governor General in Council to be best adapted for removing or diminishing the danger arising from the level crossing

(2) The Governor General in Council may require as a condition of making a requisition under sub section (1), that the local authority, if any which maintains the road shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor General in Council thinks just

15 (1) In either of the following cases namely —

Removal of trees dangerous to or obstructing the working of a railway

(a) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(b) when a tree obstructs the view of any fixed signal,

the railway administration may with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be

(2) In case of emergency the power mentioned in sub section (1) may be exercised by a railway administration without the permission of a Magistrate

(3) Where a tree felled or otherwise dealt with under sub section (1) or sub section (2) was in existence before the railway was constructed or the signal was fixed any Magistrate may, upon the application of the persons interested in the tree award to those persons such compensation as he thinks reasonable

(4) Such an award subject where made in a presidency town by any Magistrate other than the Chief Presidency Magistrate or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate, or the District Magistrate, as the case may be shall be final

92), s 49
92), s 7
9) s 46 and the Railway
ct, c 119), s 24

(Chapter III —Construction and Maintenance of Works Chapter IV —
Opening of Railways)

(5) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section

CHAPTER IV

OPENING OF RAILWAYS

16¹ (1) A railway administration may with the previous sanction of the Governor General in Council use upon a railway locomotive engines or other motive power and rolling stock to be drawn or propelled thereby

(2) But rolling stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made sanctioned and published under this Act

17 (1) Subject to the provisions of sub section (2) a railway administration shall one month at least before it intends to open any railway for the public carriage of passengers give to the Governor General in Council notice in writing of its intention

(2) The Governor General in Council may in any case, if he thinks fit reduce the period of or dispense with the notice mentioned in sub section (1)

18 A railway shall not be opened for the public carriage of passengers until the Governor General in Council or an Inspector empowered by the Governor General in Council in this behalf has by order sanctioned the opening thereof for that purpose

19 (1) The sanction of the Governor General in Council under the last foregoing section shall not be given until an Inspector has after inspection of the railway reported in writing to the Governor General in Council—

- (a) that he has made a careful inspection of the railway and rolling stock
- (b) that the moving and fixed dimensions prescribed by the Governor General in Council have not been infringed,
- (c)^a that the weight of rails strength of bridges, general structural character of the works and the size of and maximum gross load upon the axles of any rolling stock are such as have been prescribed by the Governor General in Council,
- (d) that the railway is sufficiently supplied with rolling stock

of the D C 1890 Act IX

k on rail

(Chapter II —Opening of Railways)

(e) that general rule for the working of the railway when opened for the public carriage of passengers have been made sanctioned and published under this Act, and

(f) that in his opinion the railway can be opened for the public carriage of passengers without danger to the public using it

(2)¹ If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion, together with the grounds therefor to the Governor General in Council, and the Governor General in Council may thereupon order the railway administration to postpone the opening of the railway

(3) An order under the last foregoing sub section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned and shall direct the postponement of the opening of the railway until those requirements have been complied with or the Governor General in Council is otherwise satisfied that the railway can be opened without danger to the public using it

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council thinks necessary for the safety of the public

(5) When sanction for the opening of a railway is given subject to conditions, and the railway administration fails to fulfil those conditions the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council

20² (1) The provisions of sections 17, 18 and 19 with respect to the opening of a railway shall extend to the opening of the works mentioned in sub section (2) when those works form part of or are directly connected with a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway

Application of the provisions of the three last foregoing sections to material alterations of a railway

(2) The works referred to in sub section (1) are additional lines of railway deviation lines stations junctions and crossings on the level and any alteration or reconstruction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section

21 When an accident has occurred resulting in a temporary suspension of traffic and either the original line and works have been rapidly restored to their original standard or a temporary diversion has been laid for the purpose of restoring communication the original line and works so restored or the temporary diversion as the case may be, may,

Exceptional Provision.

¹ Cf. the Railway Regulation Act 1849 (5 & 6 Vict. c. 55) s. 6

² Cf. the Regulation of Railways Act 1871 (34 & 35 Vict. c. 78) s. 5

(Chapter IV —Opening of Railways)

in the absence of the Inspector be opened for the public carriage of passengers subject to the following conditions namely —

- (a) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works or of the temporary diversion will not in his opinion be attended with danger to the public using the line and works or the diversion and
- (1) that notice by telegraph of the opening of the line and works or the diversion shall be sent as soon as may be to the Inspector appointed for the railway

Power to
make rules
with respect
to the open-
ing of rail-
ways
Power to
close an
opened rail-
way

22 The Governor General in Council may make rules defining the cases in which and in those cases the extent to which the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with

23 (1) When after inspecting any open railway used for the public carriage of passengers or any rolling stock used thereon an Inspector is of opinion that the use of the railway or of any specified rolling stock will be attended with danger to the public using it he shall state that opinion together with the grounds therefor to the Governor General in Council and the Governor General in Council may thereupon order that the railway be closed for the public carriage of passengers or that the use of the rolling stock so specified be discontinued or that the railway or the rolling stock so specified be used for the public carriage of passengers on such condition or as the Governor General in Council may consider necessary for the safety of the public

(2)² An order under sub section (1) must set forth the grounds on which it is founded

Re opening
of a closed
railway

24 (1) When a railway has been closed under the last foregoing section it shall not be re opened for the public carriage of passengers until it has been inspected and its re opening sanctioned in accordance with the provisions of this Act

(2) When the Governor General in Council has ordered under the last foregoing section that the use of any specified rolling stock be discontinued that rolling stock shall not be used until an Inspector has reported that it is fit for use and the Governor General in Council has sanctioned its use

(3) When the Governor General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling stock those conditions shall be observed until they are withdrawn by the Governor General in Council

¹ For rules see Genl R & O Vol III

² Cf the Railway Regulation Act 1842 (5 & 6 Vict, c 55) s 16

25. (1) The Governor General in Council may, by general or special order, authorize the discharge of any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the Governor General in Council might have imposed if the sanction or order had been given by himself.

(2) A conclusion imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor General in Council.

CHAPTER V

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES

Railway Commissions

26. (1) For the purposes of this Chapter the Governor General in Council shall, as occasion may in his opinion require, appoint a commission styled a Railway Commission (in this Act referred to as the Commissioners) and consisting of one Law Commissioner and two Lay Commissioners.

2) The Commissioners shall sit at such times and in such places as the Governor (General in Council appoints.

(3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Commissioners are to sit as in the case of a High Court established under the Statute 24 and 25 Victoria, Chapter 104, the Chief Justice [or, in the case of the Chief Court of Oudh, the Chief Judge] * * * may, on the request of the Governor General in Council, assign by writing under his hand

4) The Lay Commissioners shall be appointed by the Governor General in Council, and one at least of them shall be of experience in railway business.

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor General in Council.

54 (17 & 18 Vict., c 31), the Regu-
lation of the Railway and Canal Traffic
1893 (Act 5 of 1893)
Stat., Vol 1, now repealed by the

* These words were inserted by s. 2 and Sch. of the Oudh Courts (Supplementary) Act, 1925 (32 of 1925)

The words "or, in the case of the Chief Court of Lower Burma, the Chief Judge" (which were substituted for the original words by s 2 of Act 18 of 1911) were repealed by s 3 and Sch II of the Repealing and Amending Act, 1923 (11 of 1923).

(Chapter V — *Railway Commissions and Traffic Facilities*)

Reference of
cases to
Railway
Commission.

28 In any of the following circumstances, namely —

- (a) where complaint is made to the Governor General in Council of anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter
- (b) where any difference which is under the provisions of any agreement required or authorized to be referred to arbitration arises between railway administrations, and the railway administrations apply to the Governor General in Council to have it referred to the Commissioners,
- (c)¹ where any other difference, being a difference between railway administrations or one to which a railway administration is a party, arises and the parties thereto apply to the Governor General in Council to have it referred to the Commissioners,

the Governor General in Council may, if he thinks fit, refer the case to the Commissioners for decision

Constitution
of Railway
Commission
in session.

29 The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing

Powers of
Railway
Commission.

30 (1) In hearing any such case the Commissioners shall have the powers which may be exercised in the hearing of an original civil suit by a High Court

(2) The decision shall, if the Commissioners differ in opinion, be in accordance with the opinion of the majority, and the final order in the case shall be by way of injunction and not otherwise

(3)² At the hearing the Commissioners may permit any party to appear before them either by himself or by any legal practitioner entitled to practise in any High Court

Appeals
from orders
of Railway
Commission

31 (1) An Appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed

³[(2) Subject to the provisions of sub section (1), an appeal shall lie from an order of the Commissioners to the High Court of which the Law Commissioner was a member]

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe

(Chapter I — Railway Commissions and Traffic-Facilities)

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter have all the powers which it has as an Appellate Court under the Code of Civil Procedure and may make any order which the Commissioners could have made

32 Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court

33 (1) The Commissioners in the exercise of their jurisdiction under this Chapter may from time to time, with the general or special sanction of the Governor General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors

(2) There shall be paid to such persons such remuneration as the Governor General in Council upon the recommendation of the Commissioners may direct

34 The Governor General in Council may make rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners

35 The costs of and incidental to any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court as the case may be and the payment of costs awarded by the Commissioners may be enforced by the Court of which the Law Commissioner was a Judge as if the payment had been ordered by a decree of a High Court

36 (1) The Court of which the Law Commissioner was a Judge may if it appears on the application of any person who was a party to the proceedings before the Commissioners or on appeal before the High Court, or of the representative of any such person that an injunction made under this Chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment

(2) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section (1) or to the Government

¹ See now the Code of Civil Procedure 1908 (Act 5 of 1903)

² For such rules see Genl R. & O. Vol III

³ Cf. the Railway and Canal Traffic Act 1884 (17 & 18 Vict., c. 31) s. 2

(Chapter V—Railway Commissions and Traffic Facilities)

Evidence of documents

37 A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners

Submission to the Governor General in Council of special reports by Railway Commission
Dissolution of Railway Commission

38 The Commissioners shall as soon as may be after the disposal of each case referred to them submit to the Governor General in Council a special report on the case, and the Governor General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof

39 Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the Governor General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal re-appoint the Commissioners for the purpose of hearing an application for a review of their decision and of granting the same and re-hearing the case if they think that the case should be re-heard

40 Subject to the foregoing provisions of this Chapter and to any direction of Her Majesty in Council an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court

Finality of orders of Railway Commission subject to the foregoing provisions of this Chapter

41.¹ Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter or of any order made thereunder by the Commissioners or by a High Court

Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission

Traffic Facilities

42. (1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic,

¹ Cf. the Railway and Canal Traffic Act 1854 (17 & 18 Vict., c. 31), s. 6

² Cf. the Railway Clauses Act 1845 (8 & 9 Vict., c. 20), s. 90, the Railway and Canal Traffic Act 1854 (17 & 18 Vict., c. 31), s. 2, and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 25

Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality

(Chapter 1 —Railway Commissions and Traffic Facilities)

in any respect whatsoever, or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever

(3) A railway administration having or working railways which form part of a continuous line of railway communication or having its terminus or station within one mile of the terminus or station of another railway administration shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station without any unreasonable delay and without any such preference or advantage or prejudice or disadvantage as aforesaid and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration at the request of any other railway administration of through traffic to and from the railway of any other railway administration at through rates

Provided as follows —

- (a) the railway administration requesting the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration stating both its amount and its apportionment and the route by which the traffic is proposed to be forwarded. The proposed through rate for animals or goods may be per ton or per hundred
- (b) each forwarding railway administration shall within the prescribed period after the receipt of such notice by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate apportionment and route and if it has any objection what the grounds of the objection are
- (c) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration the rate shall come into operation at the expiration of that period
- (d) if in objection to the rate apportionment or route has been sent within the prescribed period the Commission or General Railway Council may if he think fit on the request of any of the railway administrations refer the matter to the Commissioners for their decision

(Chapter V—Railway Commissions and Traffic Facilities)

- (e) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable;
- (f) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective in the case of any other objection the operation of the rate shall be suspended until the Commissioners make their order in the case;
- (g) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route as well as any special charges which any railway administration is entitled to make in respect thereof,
- (h) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route,
- (i) subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly;
- (j) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor General in Council may by general or special order prescribe

43.² (I) Whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or

¹ Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 12

² Cf. the Railway and Canal Traffic Act, 1898 (51 & 52 Vict., c. 25), s. 27.

(Chapter V.—*Railway Commissions and Traffic Facilities* Chapter VI
—*Working of Railways*)

to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made

44.¹ Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat or raft which does not belong to or is not hired or worked by the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft in so far as it is used for the purposes of the traffic of the railway

Provision for facilities and equal treatment where ships or boats are used which are not part of a railway

45. A railway administration may charge reasonable terminals

46.² (1) The Governor General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals

Terminals Power of Railway Commission to fix terminals

(2)³ In deciding the question or dispute, the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation

CHAPTER VI

WORKING OF RAILWAYS

General

47.⁴ (1) Every railway company and in the case of a railway administration by the Government, an officer to be appointed by the Governor General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely —

General rules

(a) for regulating the mode in which and the speed at which, rolling-stock used on the railway is to be moved or propelled;

¹ Cf. the Railway and Canal Traffic Act 1890 (31 & 52 Vict. c. 25), s. 25

² Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict. c. 48), s. 15

³ 51 & 52 Vict. c. 25, s. 24 (1)
52 Vict. c. 97, ss. 7 to 9, and the
10

construction see Genl. R. & O.,

(Chapter VI—Working of Railways)

- (b) for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage,
- (c) for declaring what shall be deemed to be, for the purposes of this Act dangerous or offensive goods, and for regulating the carriage of such goods,
- (d) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders and providing for the disinfection of carriages which have been used by such passengers,
- (e) for regulating the conduct of the railway servants,
- (f)¹ for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner and
- (g)² generally for regulating the travelling upon and the use, working and management of the railway.³

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees⁴ and that in the case of a rule made under clause (e) of sub section (1) the railway servants shall forfeit a sum not exceeding one month's pay which sum may be deducted by the railway administration from his pay.

(3) A rule made under this section shall not take effect until it has received the sanction of the Governor General in Council and been published in the Gazette of India.

Provided that where the rule is in the terms of a rule which has already been published at length in the Gazette of India a notification in that Gazette referring to the rule already published and announcing the adoption thereof shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub section.

(4) The Governor General in Council may cancel any rule made under this section, and the authority required by sub section (1) to make rules thereunder may at any time with the previous sanction of the Governor General in Council rescind or vary any such rule.

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railways Act, 1879 and appearing from the

IV of 1879

¹ or rules applicable to all railways in British India regulating the terms and conditions on which railway administrations will warehouse or retain goods at any station or depot on behalf of consignee or owner see Genl R. & O. Vol III

² For general rules for all open lines of railway in British India see separate pamphlet published by the Railway Board

³ Cf. the Railways Clauses Act 1863 (26 & 27 Viet. c. 92) s. 39

⁴ Cf. the Canadian Railway Act 1886 (49 Viet. c. 109) s. 86

⁵ Repealed by this Act

(Chapter VI.—Working of Railways)

Gazette of India to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

48.¹ Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public the Governor General in Council, upon the application of either or any of the administrations may decide the matters in dispute between them so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

49.² Any railway company, not being a company for which the Statute 42 and 43 Vict, Chap 41, provides may from time to time make and carry into effect agreements with the Governor General in Council for the construction of rolling-stock plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

50.⁴ Any railway company not being a company for which the Statute 42 and 43 Vict Chap 41 provides may from time to time make with the Governor General in Council and carry into effect or with the sanction of the Governor General in Council, make with any other railway administration and carry into effect any agreement with respect to any of the following purposes, namely —

(a) the working, use, management and maintenance of any railway,

s 11 and the Railways

Vict c 4), s 4 (d)

Vol II

t Vict c 41), s 2, the
ways (Sales and Leases)
1863 (26 & 27 Vict, c

⁴ For instance of such agreement see Mad R & O, Vol I

(Chapter VI—Working of Railways)

- (b) the supply of rolling stock and machinery necessary for any of the purposes mentioned in clause (a) and of officers and servants for the conduct of the traffic of the railway
- (c) the payments to be made and the conditions to be performed with respect to such working use management and maintenance
- (d) the interchange accommodation and conveyance of traffic being on, coming from or intended for, the respective railways of the contracting parties and the fixing collecting, apportionment and appropriation of the revenues arising from that traffic
- (e) generally the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on

Provided that the agreement shall not affect any of the rates which the railway administrations parties thereto are from time to time respectively authorized to demand and receive from any person, and that every person shall notwithstanding the agreement be entitled to the use and benefit of the railways of any railway administrations parties to the agreement on the same terms and conditions and on payment of the same rates as he would be if the agreement had not been entered into

Establishment of ferries and roadways for accommodation of traffic

51¹ Any railway company not being a company for which the ²Statute 42 and 43 Vict Chap 41 provides may from time to time exercise with the sanction of the Governor General in Council all or any of the following powers namely —

- (a) it may establish, for the accommodation of the traffic of its railway any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry,
- (b) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section
- (c) it may provide and maintain on any of its bridges roadways for foot-passengers cattle carriages carts or other traffic,
- (d) it may construct and maintain roads for the accommodation of traffic passing to or from its railway
- (e) it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers animals or goods carried or to be carried on its railway,

¹ Cf. the Indian Guaranteed Railways Act 1879 (42 & 43 Vict c 41) s 4

² The Indian Guaranteed Railways Act 1879 (42 & 43 Vict c 41) Coll Stat Vol II

(Chapter VI — Working of Railways)

(f) it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor General in Council

52¹ Every railway administration shall in forms to be prescribed by the Governor General in Council prepare, half yearly or at such intervals as the Governor General in Council may prescribe, such returns of its capital and revenue from actions and of its traffic as the Governor General in Council may require and shall forward a copy of such returns to the Governor General in Council at such times as he may direct

Carriage of Property

53^{*} (1) Every railway administration shall determine the maximum load for every wagon or truck in its possession and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck

Returns

Maximum load for wagons

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor General in Council for the class of axle under the wagon or truck

54 (1) Subject to the control of the Governor General in Council a railway administration may impose conditions not inconsistent with this Act or with any general rule thereunder with respect to the receiving forwarding or delivering of any animals or goods

Power for railway administration to impose conditions for working traffic

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub section (1) at the station and shall allow any person to inspect it free of charge at all reasonable times

(3) A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder

55³ (1) If a person fails to pay on demand made by or on behalf of a railway administration any rate terminal or other charge due from him in respect of any animals or goods the railway administration may detain the whole or any of the animals or goods or if they have been removed from the railway, any other animal or goods of such person then being in or thereafter coming into its possession

Lien for rates, terminals and other charges

¹ Cf. the Railway Regulation Act 1840 (3 & 4 Vict. c. 9) s. 3 the Regulation of Railways Act 1868 (31 & 32 Vict. c. 119) ss. 3 and 4 and the Regulation of Railways Act 1871 (34 & 35 Vict. c. 78) ss. 9 and 10

² Cf. the Railway Regulation Act 1842 (5 & 6 Vict. c. 55) s. 16

³ Cf. the Railway Clauses Act 1845 (8 & 9 Vict. c. 20) s. 9

(Chapter VI — Working of Railways)

(2) When any animals or goods have been detained under sub section (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers, or where there are no such newspapers, in such manner as the Governor General in Council may prescribe sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention notice and sale, including, in the case of animals, the expenses of the feeding watering and tending thereof

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid rendering the surplus if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub section (1) or any animals or goods which have remained unsold after a sale under sub section (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub section (3)

(5) Notwithstanding anything in the foregoing sub sections, the railway administration may recover by suit any such rate terminal or other charge as aforesaid or balance thereof

56 (1) When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the animals or goods

(2) If such owner or person is not known, or the notice cannot be served upon him or he does not comply with the requisition in the notice, the railway administration may within a reasonable time subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus if any, of the proceeds of the sale to any person entitled thereto

57 Where any animals goods or sale proceeds in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods or sale proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the

Disposal of
unclaimed
things on a
railway

Power for
railway ad-
ministrations
to require
indemnity on
delivery of
goods in
certain cases

(Chapter VI—Working of Railways)

claims of any other person with respect to the animals goods or sale-proceeds

4 58 (1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof

Requisitions
for written
accounts of
description
of goods

(2) If such owner person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may (a) in respect of goods which have been brought for the purpose of being carried on the railway refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or, (b) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate

(3) If an account delivered under sub section (1) is materially false with respect to the description of any goods to which it purports to relate and which have been carried on the railway the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods

(4) If any difference arises between a railway servant and the owner or person having charge or the consignee of any goods which have been brought to be carried or have been carried on a railway respecting the description of goods of which an account has been delivered under this section the railway servant may detain and examine the goods

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub section (1), the person who delivered the account or if that person is not the owner of the goods then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub section (1) the railway

(Chapter VI—Working of Railways)

administration shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid

Dangerous or
offensive
goods

59 (1) No person shall be entitled to take with him, or to require a railway administration to carry any dangerous or offensive goods upon a railway

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them

(3) Any railway servant may refuse to receive such goods for carriage, and, when such goods have been so received without such notice as is mentioned in [sub section (2)] having to his knowledge been given, may refuse to carry them or may stop their transit

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents

(5) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884, or any rule under that Act, and nothing in sub sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor, [airman] or police officer or [a member of the Indian Territorial Force, or of the Auxiliary Force, India] may take with him upon a railway in the course of his employment or duty as such

Exhibition to
the public of
an authority for
quoted rates

60 'At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person show to him at all reasonable times, and without payment of any fee, the rate books or other documents in which the rate is authorized by the administration or administrations concerned

¹The words and figure 'sub section (2)' were substituted for the words and figure 'sub-section (1)' by the Indian Railways Act (1890) Amendment Act, 1896 (J of 1896) s 3

²This word was inserted by s 2 and Sch I of the Repealing and Amending Act, 1927 (10 of 1927)

³These words were inserted under the Indian Railways Act, 1890, by the Indian Railways Amendment Act, 1896

⁴Cf the Indian Railways Act, 1890, s 14, and the Indian Railways Amendment Act, 1896, s 33

as a person enrolled as a volunteer under the Indian Railways Act, 1890, s 2 and 1st Sch of the Repealing and

(36 & 37 Vict c 48) s 14, and the Indian Railways Amendment Act, 1896, s 33

(Chapter VI.—Working of Railways.)

61.¹ (1) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely:—

- (a) the carriage of the goods on the railway,
- (b) terminals,
- (c) demurrage; and
- (d)² collection, delivery and other expenses;

but without particularizing the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

Carriage of Passengers

62.³ The Governor General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor General in Council has approved

63. Every railway administration shall fix, subject to the approval of the Governor General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages as the Governor General in Council after consultation with the railway administration, may determine

64. (1) On and after the first day of January 1891, every railway administration shall, in every train carrying passengers, reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train

(2) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet

¹ Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 17

² Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 14

³ Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 22

(Chapter VI —Working of Railways)

Exhibition
of time tables
and tables of
fares at
stations

65 Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situate, a copy of the time tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card tickets are ordinarily issued to passengers at that station

Supply of
tickets on
payment of
fares

66 (1) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which and the place from and the place to which, the fare has been paid and the amount of the fare

(2) The matters required by sub section (1) to be specified on a ticket shall be set forth—

(a) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway and

(b) if the class of carriage to be so specified is any other than the lowest class then in English

Provision for
cases in which
tickets have
been issued
for trains not
having room
available for
additional
passengers

67 (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued

(2) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on returning the ticket within three hours after the departure of the train be entitled to have his fare at once refunded

(3) A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled

Prohibition
against
travelling
without
pass or
ticket

68 No person shall, without the permission of a railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket

Exhibition
and surrender
of passes
and tickets

69 Every passenger by railway shall on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued or in the case of a season pass or ticket at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant

(Chapter VI — *Working of Railways* Chapter VII — *Responsibility of Railway Administrations as Carriers*)

70 A return ticket or season ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued

Return and
season
tickets

71 (1) A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47 sub section (1) clause (d), a person suffering from any infectious or contagious disorder

Power to
refuse to
carry persons
suffering
from infec-
tious or
contagious
disorder

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station master or other railway servant in charge of the place where he enters upon the railway

(3) A railway servant giving such permission as is mentioned in sub section (2) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway

CHAPTER VII

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS

72 (1) The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall be subject to the other provisions of this Act be that of a bailee under sections 152 and 161 of the Indian Contract Act 1872

Measure of
the general
responsibility
of a railway
administration
as a carrier of
animals and
goods

(2) An agreement purporting to limit that responsibility shall in so far as it purports to effect such limitation be void unless it—

(a) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods and

(b) is otherwise in a form approved by the Governor General in Council

(3) Nothing in the common law of England or in the Carriers Act 1865 regarding the responsibility of common carriers with respect to the carriage of animals or goods shall affect the responsibility as in this section defined of a railway administration

73 (1) The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any

Further pro-
visions with
respect to
the liability
of a railway

For risk note forms prescribed under this clause see Genl R & O Vol III
C of the Railway and Canal Traffic Act 1924 (1925 Act c 31) a "

(Chapter VII—Responsibility of Railway Administrations as Carriers)

administra-
tion as a
carrier of
animals

case exceed, in the case of elephants or horses, five hundred rupees a head or, in the case of ¹[mules], camels or horned cattle, fifty rupees a head or, in the case of ¹[donkeys], sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid

(3) In every proceeding against a railway administration for the recovery of compensation for the loss destruction or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation

74 A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt therefor

Further pro-
vision with
respect to the
liability of a
railway
administra-
tion as a
carrier of
luggage

Further pro-
vision with
respect to the
liability of a
railway ad-
ministration
as a carrier
of articles of
special value

75 ² (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk

(2) When any parcel or package of which the value has been declared under sub section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation

(3) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a railway servant authorized in this behalf has been satisfied by

The words "mules" and "donkeys" were added by the Indian Railways Act (1900) Amendment Act 1896 (9 of 1896) s 4

² Cf. the Carriers Act 1830 (11 Geo 4 & 1 Will 1 c 69) s 1

(Chapter VII — Responsibility of Railway Administrations as Carriers)

examination or otherwise that the parcel actually contains the article declared to be therein

76 In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused

Burden of proof in suits in respect of loss of animals or goods

77 A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway

Notification of claims to refunds of overcharges and to compensation for losses

78 Notwithstanding anything in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub section (1) of section 58 if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account

Exoneraton from responsibility in case of goods falsely described

79 Where an officer soldier [airman]¹ or follower while being or travelling as such on duty upon a railway belonging to and worked by, the Government loses his life or receives any personal injury in such circumstances that, if he were not an officer, soldier [airman] or follower being or travelling as such on duty upon the railway, compensation would be payable under Act² No. XIII of 1855 or to him as the case may be the form and amount of the compensation to be made in respect of the loss of his life or his injury shall where there is any provision in this behalf in the military [or air force] regulations to which he was immediately before his death or is subject, be determined in accordance with those regulations and not otherwise

Settlement of compensation for injuries to officers sold iers a rmen and followers on dut

80 Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration a suit for compensation for loss of the life of or personal injury to a passenger or for loss, destruction or deterioration of animals or goods where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the railway administration from which the passenger obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the

Suits for compensation for injury to through booked traffic

¹ These words were inserted by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927)

² The Indian Fatal Accidents Act 1855

(Chapter VII —Responsibility of Railway Administrations as Carriers
Chapter VIII —Accidents)

consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury, destruction or deterioration occurred

81 [Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway] Rep by the Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896), section 5

82¹ (1) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers, and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea to the extent to which it would be responsible under the² Merchant Shipping Act, 1854, and the³ Merchant Shipping Act Amendment Act, 1862,⁴ if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub section (1) happened during the carriage by sea shall lie on the railway administration

CHAPTER VIII

ACCIDENTS

83⁵ When any of the following accidents occur in the course of working a railway, namely —

- (a) any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code, or with serious injury to property,
- (b) any collision between trains of which one is a train carrying passengers,
- (c) the derailment of any train carrying passengers or of any part of such a train,

¹ Cf the Regulation of Railways Act, 1868 (31 & 32 Vict., c 119) s 14 and the Regulation of Railways Act 1871 (34 & 35 Vict c 78), s 12

² See now the Merchant Shipping Act 1894 (57 & 58 Vict., c 60)

³ Cf the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78) s 6

(Chapter VIII—Accidents)

- (d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property
- (e) any accident of any other description which the Governor General in Council may notify in this behalf in the Gazette of India

the railway administration working the railway and if the accident happens to a train belonging to any other railway administration the other railway administration also shall without unnecessary delay send notice of the accident to the Local Government and to the Inspector appointed for the railway and the station master nearest to the place at which the accident occurred or where there is no station master the railway servant in charge of the section of the railway on which the accident occurred shall without unnecessary delay give notice of the accident to the Magistrate of the district in which the accident occurred and to the officer in charge of the police station within the local limits of which it occurred or to such other Magistrate and police officer as the Governor General in Council appoints in this behalf

84 The Governor General in Council may make rules consistent with this Act and any other enactment for the time being in force for all or any of the following purposes namely —

Power to make rules regarding not cess and aqueducts into accidents

- (a) for prescribing the forms of the notices mentioned in the last foregoing section and the particulars of the accident which those notices are to contain
- (b) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred
- (c) for prescribing the duties of railway servants police officers Inspectors and Magistrates on the occurrence of an accident

85 Every railway administration shall send to the Governor General in Council a return of accidents occurring upon its railway whether attended with personal injury or not in such form and manner and at such intervals of time as the Governor General in Council directs

Submissions on return of accidents

86 Whenever any person injured by an accident on a railway claims compensation on account of the injury any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical

Provision for compulsory medical examination on of persons injured in

For such notice see Assam R. M. for report of accidents on F. I. and I. M. Rys. in Central Provinces see C. P. R. & O.

Madras to receive the town of Madras

accidents occurring in the

railway accident practitioner named in the order and not being a witness on either side, and may make such order with respect to the cost of the examination as it or he thinks fit

CHAPTER IX

PENALTIES AND OFFENCES

Forfeitures by Railway Companies

Penalty for default in compliance with requisition under section 13 87 If a railway company fails to comply with any requisition made under section 13 it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues

Penalty for contravention of section 16 18 19 20 21 or 24 88 If a railway company moves any rolling stock upon a railway by steam or other motive power in contravention of section 16 sub section (2) or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21 or re opens any railway or uses any rolling stock in contravention of section 24 it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power railway work or rolling stock is used in contravention of any of those sections

Penalty for not having certain documents kept or exhibited at stations under section 47, 54 or 65 89 If a railway company fails to comply with the provisions of section 47 sub section (6) section 54, sub section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues

Penalty for failure to make rules as required by section 47 90 If the railway company fails to comply with the provisions of section 47 with respect to the making of general rules it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues

Penalty for failure to comply with decision under section 48. 91¹ If a railway company refuses or neglects to comply with any decision of the Governor General in Council under section 48 it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues

Penalty for delay in submitting returns under section 52 or 53. 92 If a railway company fails to comply with the provisions of section 52 or section 53 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return

(Chapter IX —Penalties and Offences)

93 If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number in or on the compartment or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened

Penalty for neglect of provisions of sect on 53 or 63 with respect to carrying capacity of rolling stock.

94¹ If a railway company fails to comply with any requisition of the Governor General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it which carries passengers, of such efficient means of communication as the Governor General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition

Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants

95 If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs

Penalty for failure to reserve compartments for females under section 64

96 If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues

Penalty for omitting to give the notices of accidents required by sect on 83 and under sect on 84

97 (1) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred

Recovery of penalties

(2) The suit must be instituted with the previous sanction of the Governor General in Council and the plaintiff therein shall be the Secretary of State for India in Council

(3) The Governor General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter

98 Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceedings instead of or in addition to such a suit as is mentioned in the last foregoing section

Alternative or supplementary character of

¹ Cf the Regulation of Railways Act 1869 (31 & 32 Vict c 119) s 22

(Chapter IX—Penalties and Offences)

remedies
afforded by
the foregoing
provisions of
this Chapter

for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act

Offences by Railway Servants

Breach of
duty imposed
by section
60

99¹ If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees

Drunken
ness

100 If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both

Endanger
ing the
safety of
persons

101² If a railway servant, when on duty, endangers the safety of any person—

(a) by disobeying any general rule made, sanctioned, published and notified under this Act, or

(b) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or

(c) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to five hundred rupees, or with both

Compelling
passengers
to enter car
riages
already full

102 If a railway servant compels or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees

Omission to
give notice of
accident

103 If a station master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees

Obstructing
level-cross
ings

104³ If a railway servant unnecessarily—

(a) allows any rolling stock to stand across a place where the railway crosses a public road on the level, or

(b) keeps a level crossing closed against the public,

he shall be punished with fine which may extend to twenty rupees

(Chapter IX—Penalties and Offences)

105¹ If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both

False returns

Other Offences

106² If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable

Giving false account of goods

107² If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway

Unlawfully bringing dangerous or offensive goods upon a railway

108² If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees

Needlessly interfering with means of communication on a railway

109 (1) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63 refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to twenty rupees

Entering compartment reserved or already full or resisting entry into a compartment not full

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees

110 (1) If a person, without the consent of his fellow passengers, if any, in the same compartment smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees

Smoking

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability

¹ Cf. the Regulation of Railways Act 1871 (34 & 35 Vict., c. 78), s. 10

² Cf. the Railway Clauses Act 1845 (8 & 9 Vict., c. 20) ss. 99 and 152 respectively

³ Cf. the Regulation of Railways Act 1868 (31 & 32 Vict., c. 119) s. 22

(Chapter IX—Penalties and Offences)

mentioned in sub section (I), he removed by any railway servant from the carriage in which he is travelling

111¹ If a person, without authority in this behalf, pulls down or wilfully injures any board or document set up or posted by order of a railway administration on a railway or any rolling-stock, or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees

112 If a person, with intent to defraud a railway administration,—

(a) enters in contravention of section 68 any carriage on a railway, or

(b) uses or attempts to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return ticket, a half thereof which has already been so used,

he shall be punished with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance which he may have travelled

113.² (1) If a passenger travels in a train without having a proper pass or a proper ticket with him, or, being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorized by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made

(3) The excess charge referred to in sub section (1) and sub-section (2) shall,—

(a) where the passenger has immediately after incurring the charge and before being detected by a railway servant

¹ Cf the Companies Clauses Act, 1845 (8 & 9 Vict., c 16), s 146

² Cf the French and German Railway law

Defacing
public
notices

Fraudulently
travelling
or attempt
ing to travel
without pro
per pass or
ticket

Travelling
without pass
or ticket or
with insuffi
cient pass or
ticket or
beyond
authorized
distance

(Chapter IV —Penalties and Offences)

notified to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas or eight annas and

(b) in any other case be six rupees one rupee or three rupees

according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind

Provided that such excess charge shall in no case exceed —

(a) where the liability to pay it arises under sub section (1) the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub section or

(b) where such liability arises under sub section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made

(d) If a passenger liable to pay the excess charge and fare mentioned in sub section (1), or the excess charge and any difference of fare mentioned in sub section (2) fails or refuses to pay the same on demand being made therefor under one or other of those sub sections as the case may be the sum payable by him shall on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate and shall as it is recovered be paid to the railway administration

114 If a person sells or attempts to sell or parts or attempts to part with the possession of, ²[any half] of a return ticket in order to enable any other person to travel therewith or purchase such half of a return ticket he shall be punished with fine which may extend to fifty rupees and if the purchaser of such half of a return ticket travels or attempts to travel therewith he shall be punished with an additional fine which may extend to the amount of the single fare for ³[the journey] authorized by the ticket

Transferring any half of return ticket

115 That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall, as the fine is recovered be paid to the railway administration before any portion of the fine is credited to the Government

Disposal of fines under the two last foregoing sections.

"9 of the Code of Criminal

ords "the return half" by 1896 (9 of 1896) words "the return jour

(Chapter IX —Penalties and Offences)

Altering or
defacing pass
or ticket

116. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees

Being or
suffering
person to
travel on
railway with
infectious or
contagious
disorder

117. (1) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant

(2) If any such railway servant as is referred to in section 71, sub-section (2) knowing that a person is suffering from any infectious or contagious disorder wilfully permits the person to travel upon a railway without arranging for his separation from other passengers, he shall be punished with fine which may extend to one hundred rupees

Entering
carriage in
motion or
otherwise
improperly,
travelling on
a railway

118 (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the side door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant

Enter in
carriage or
other place
reserved for
females

119. If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration for the exclusive use of females enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant

Drunkenness
or nuisance
on a railway

120. If a person in any railway carriage or upon any part of a railway—

- (a) is in a state of intoxication, or
- (b) commits any nuisance or act of indecency or uses obscene or abusive language, or
- (c) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp

(Chapter IX —Penalties and Offences)

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fine which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant

121¹ If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees

Obstructing railway servant in his duty

122¹ (1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees

Trespass and refusal to desist from trespass

(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person

123 If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police officer, he shall be punished with fine which may extend to twenty rupees

Disobedience of omnibus drivers to directions of railway servants

124² In either of the following cases namely —

(a) if a person knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, vehicle or other thing across the railway,

Opening or not properly shutting gates

(b) if, in the absence of a gate keeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate

the person shall be punished with fine which may extend to fifty rupees

125 (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871

Cattle trespass.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the

¹ Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), s. 16

² Cf. the Railway Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 75

(Chapter IX —Penalties and Offences)

cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle trespass Act, 1871

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle trespass Act, 1871

(4) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections

(5) The word cattle has the same meaning in this section as in the Cattle trespass Act 1871

126¹ If a person unlawfully—

- (a) puts or throws upon or across any railway any wood, stone or other matter or thing or
- (b) takes up, removes, loosens or displaces any rail sleeper or other matter or thing belonging to any railway or
- (c) turns moves unlocks or diverts any points or other machinery belonging to any railway or
- (d) makes or shows or hides or removes any signal or light upon or near to any railway, or
- (e) does or causes to be done or attempts to do any other act or thing in relation to any railway

with intent, or with knowledge that he is likely to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years

127² If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling stock forming part of a train any wood, stone or other matter or thing with intent or with knowledge that he is likely to endanger the safety of any person being in or upon such rolling stock or in or upon any other rolling stock forming part of the same train he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years

128³ If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person

¹ Cf the Malicious Damage Act 1861 (24 & 25 Vict c 97) s 35 and the Offences against the Person Act 1861 (24 & 25 Vict c 100) s 39

² Cf the Offences against the Person Act 1861 (24 & 25 Vict c 100) s 33

³ Cf the Offences against the Person Act 1861 (24 & 25 Vict c 100) s 34 and the Malicious Damage Act 1861 (24 & 25 Vict c 97) s 36

Maliciously wrecking or attempting to wreck a train

Maliciously hurting or attempting to hurt persons travelling by railway

Endangering safety of persons tra

(Chapter IX —Penalties and Offences

travelling or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years

129 If a person rashly or negligently does any act, or omits to do what he is legally bound to do and the act or omission is likely to endanger the safety of any person travelling or being upon a railway he shall be punished with imprisonment for a term which may extend to one year or with fine or with both

130 (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code to have committed an offence and the Court convicting him may if it thinks fit direct that the minor if a male shall be punished with whipping or may require the father or guardian of the minor to execute, within such time as the Court may fix a bond binding himself in such penalty as the Court directs to prevent the minor from being again guilty of any of those acts or omissions

(2) The amount of the bond, if forfeited shall be recoverable by the Court as if it were a fine imposed by itself

(3) If a father or guardian fails to execute a bond under sub section (1) within the time fixed by the Court he shall be punished with fine which may extend to fifty rupees

Procedure

131 (1) If a person commits any offence mentioned in section 100, 101 119 120 121 126 127 128 or 129 or in section 130 sub section (1) he may be arrested without warrant or other written authority by any railway servant or police officer or by any other person whom such servant or officer may call to his aid

(2) A person so arrested shall with the least possible delay be taken before a Magistrate having authority to try him or commit him for trial

132² (1) If a person commits any offence under this Act, other than an offence mentioned in the last foregoing section or fails or refuses to pay any excess charge or other sum demanded under section 113, and there is reason to believe that he will abscond or his name and address are unknown and he refuses on demand to give his name and address,

¹ See ss 386 to 389 of the Code of Criminal Procedure 1899 (Act 5 of 1899)

² Cf the Compromise Clauses Act 1843 (2 & 3 Vict c 16) s 156

(Chapter IX —Penalties and Offences Chapter X—Supplemental Provisions)

or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police officer may call to his aid may without warrant or other written authority arrest him

(2) The person arrested shall be released on his giving bail or if his true name and address are ascertained, on his executing a bond without sureties for his appearance before a Magistrate when required

(3) If the person cannot give bail and his true name and address are not ascertained he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction

(4) The provisions of Chapters XXXIX and XLII of the Code of Criminal Procedure 1882 shall so far as may be apply to bail given and bonds executed under this section

Magistrate
having jurisd
iction under
Act

133 No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act

place of
trial

134 (1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the Local Government may notify in this behalf as well as in any other place in which he might be tried under any law for the time being in force

(2) Every notification under sub section (1) shall be published in the local official Gazette and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct

CHAPTER X

SUPPLEMENTAL PROVISIONS

Taxation of
ra lways by
local author
at es

135 Notwithstanding anything to the contrary in any enactment or in any agreement or award based on any enactment the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities namely —

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor General in

¹ See now the Code of Criminal Procedure 1898 (Act 5 of 1898)

² For instances of notifications issued under this power see different local Rules and Orders

³ For definition of local authority see sub-section (5) *infra* and the General Clauses Act 1897 (10 of 1897) s 3 (28)

(Chapter A—Supplemental Provisions)

Council has by notification in the official Gazette, declared the railway administration to be liable to pay the tax ¹

(2) While a notification of the Governor General in Council under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer ²appointed in this behalf by the Governor General in Council may having regard to all the circumstances of the case from time to time determine to be fair and reasonable

(3) The Governor General in Council may at any time revoke or vary a notification under clause (1) of this section

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light or for the scavenging of railway premises or for any other service which the local authority may be rendering or he prepared to render within any part of the local area under its control

(5) 'Local authority' in this section means a local authority as defined in the ³General Clauses Act 1887, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river

136 ⁴ (1) None of the rolling stock machinery, plant tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court ⁵[or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution] without the previous sanction of the Governor General in Council

Restriction
on execution
against rail
way pro
perty

(2) Nothing in sub section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order

shall be liable to tax in respect of its property within the Rangoon Municipality
 Gazette of India 1906 Pt I p 811
 or such appointment see Genl R and O Vol III
 1907 s 3 (19)
 Vict c 127 s 4
 Railways Act (1890) Amendment

(Chapter X—Supplemental Provisions)

Railway servants to be public servants for the purposes of Chapter IX of the Indian Penal Code

137. (1) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code

(2) In the definition of "legal remuneration" in section 161 of that Code, the word "Government" shall, for the purposes of sub section (1), be deemed to include any employer of a railway servant as such

(3) A railway servant shall not—

(a) purchase or bid for, either in person or by agent in his own name or in that of another or jointly or in shares with others, any property put up to auction under section 55 or section 56 or

(b) in contravention of any direction of the railway administration in this behalf engage in trade

(4) Notwithstanding anything in section 21 of the Indian Penal Code, a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub section (1)

Procedure for summary delivery to railway administration of property detained by railway servant

138¹ If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives refuses or neglects after notice in writing for that purpose to deliver up to the railway administration or to a person appointed by the railway administration in this behalf any station, dwelling house, office or other building with its appurtenances, or any books, papers or other matters belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid any Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books papers or other matters and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf

Mode of signifying communications from the Governor General in Council

139² Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the Governor General in Council for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under Secretary or Assistant Secretary to the Government of India or by any other officer or servant authorized to act on behalf of the Governor General in Council in respect of the

Vict c 20) s 106

18 (51 & 52 Vict c 25) s 53

to the Railway Board to sign these

(Chapter X—Supplemental Provisions)

matters to which the same may relate and the Governor General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid

140 Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and in the case of a railway administered by a railway company, on the Agent in India of the railway company—

Service of notices on railway administrations

(a) by delivering the notice or other document to the Manager or Agent or

(b) by leaving it at his office or

(c) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the 'Indian Post Office Act 1866

800

141² Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served—

Service of notices by railway administration

(a) by delivering it to the person or

(b) by leaving it at the usual or last known place of abode of the person or

(c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under Part III of the 'Indian Post Office Act 1866

1800

142 Where a notice or other document is served by post it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered

Presumption where notice is served by post.

143 (1) A rule under section 22 section 34 or section 84 or the cancellation rescission or variation of a rule under any of those sections or under section 47 sub-section (4) shall not take effect until it has been published in the Gazette of India

Provisions with respect to rules

(2) Where any rule made under this Act or the cancellation rescission or variation of any such rule is required by this Act to be published in the Gazette of India it shall besides being so published, be further notified to persons affected thereby in such manner as the Governor General in Council, by general or special order directs

¹ See now the Indian Post Office Act 1898 (6 of 1898)

² Cf. the Companies Clauses Act 1845 (8 & 9 Vict. c. 16) s. 136, and the Railway Clauses Act 1845 (8 & 9 Vict. c. 40) s. 34

(Chapter X—Supplemental Provisions)

(3) The Governor General in Council may cancel or vary any rule made by him under this Act

Delegation
of powers of
Governor
General in
Council.

144. (1) The Governor General in Council may, by notification in the Gazette of India, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway¹

(2) The provisions of section 139 with respect to proceedings of the Governor General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor General in Council in pursuance of a notification under sub section (1)

145 (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorize any railway servant or other person to act for or represent him in any proceeding before any Civil Criminal or other Court

(2) A person authorized by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the Code of Criminal Procedure, 1832, be entitled to conduct such prosecutions without the permission of the Magistrate

146 The Governor General in Council may, by notification in the Gazette of India extend this Act or any portion thereof to any tramway worked by steam or other mechanical power²

147 The Governor General in Council may, by a like notification, exempt any railway from any of the provisions of this Act⁴

148 (1) For the purposes of section 3, clauses (5), (6) and (7), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98 100 101, 103 104, 107, 111, 122 124 to 132 (both inclusive), 134 to 138 (both inclusive), 140 141, 144, 145 and

Representa-
tion of
Managers
and Agents
of Railways
in Courts.

Power to
extend Act
to steam
tramways

Power to
exempt rail-
ways from
Act

Matters sup-
plemental to
the defini-
tions of
"railway"
and railway
servant

(Chapter X—Supplemental Provisions The First Schedule)

147, the word "railway," whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, clause (2)

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125 and 137, sub sections (1), (2), and (4), and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration

149 In sections 194 and 195 of the Indian Penal Code, for the words 'by this Code or the law of England' the words "by the law of British India or England" shall be substituted Amendment of the Indian Penal Code

150 For that portion of the preamble to the Sindh-Pishin Railway Act 1887 which begins with the words "so far as it applies" and ends with the words "in its entirety," the words "should apply in its entirety to that part of the Sindh Pishin section of the North Western Railway which lies beyond the Province of Sindh" shall be substituted Amendment of the Sindh Pishin Railway Act 1887

THE FIRST SCHEDULE

ENACTMENTS REPEALED

(See section 2)

Number and year	Title	Extent of repeal
<i>Acts of the Governor General in Council</i>		
III of 1860	Carr ers Act 1860	Section " (so far as it relates to railways) and section 10
IV of 1879	Indian Railways Act 1879	The whole
IV of 1883	Indian Railways Act 1883	The whole
XI of 1886	Indian Tramways Act 1886	Section 4 ^a
* * * * *		

Bal Code

* The entry relating to the Upper Burma Laws Act 1885 (20 of 1885), was repealed by the Burma Laws Act, 1893 (13 of 1893) see Bur Code

(The First and Second Schedules)

THE FIRST SCHEDULE—contd

Number and year	Title	Extent of repeal
<i>Act of the Legislative Council of Bengal</i>		
II of 1880	Pengal F bankment Act 1880.	Section 16 and in section 17 the words "the first paragraph of that section" and the words "or under the section last preceding" and the words "or shall" wherever they occur

THE SECOND SCHEDULE

ARTICLES TO BE DECLARED AND INSURED

(See section 75)

- (a) gold and silver coined or uncoined manufactured or unmanufactured
- (b) plated articles
- (c) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer soldier sailor police officer or person enrolled as a volunteer under the Indian Volunteers Act 1869, or of any public officer British or foreign entitled to wear uniform
- (d) pearls precious stones jewellery and trinkets
- (e) watches clocks and timepieces of any description
- (f) Government securities
- (g) Government stamps
- (h) bills of exchange hundis promissory notes bank notes and orders or other securities for payment of money,
- (i) maps writing and title deeds
- (j) paintings engravings lithographs photographs carvings sculpture and other works of art
- (k) art pottery and all articles made of glass china or marble
- (l) silks in a manufactured or unmanufactured state and whether wrought up or not wrought up with other materials
- (m) shawls
- (n) lace and furs
- (o) opium
- (p) ivory ebony coral and sandalwood

(The Second Schedule.)

1890: Act X.] *Printing-presses and Newspapers.*THE SECOND SCHEDULE—*contd.*

- (g) musk, sandalwood-oil and other essential oils used in the preparation of its or other perfume;
- (r) musical and scientific instruments;
- (s) any article of special value which the Governor General in Council may, by notification in the Gazette of India, add to this schedule.¹

ACT No X or 1890.²

[21st March, 1890]

An Act to amend Act XXV of 1867.

WHEREAS it is expedient to amend Act XXV of 1867 (*an Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books*); It is hereby enacted as follows —

1. [Repeal of part of preamble to Act XXV of 1867] Rep by the *Repealing and Amending Act, 1891 (XII of 1891)*.

2. [Repeal of part of section 1, Act XXI, 1867] Rep by the *Repealing and Amending Act 1891 (XII of 1891)*

3. In section 6 of the said Act, for the words "other Court within the local limits of whose ordinary original civil jurisdiction" the words "other principal Civil Court of original jurisdiction for the place where" shall be substituted

Amendment
of section 6,
Act XXV,
1867

4. For Part III (sections 9, 10 and 11) of the said Act the following shall be substituted, namely —

Substitution
of new Part
for Part III,
Act XXV,
1867.

PART III

"DELIVERY OF BOOKS"

"9. Printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act

Copies of
books printed
after com.

commencement
of Act to be
delivered
gratis to
Government

shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the Local Government shall, by notification in the official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say —

- (a) in any case, within one calendar month after the day on which any such book shall first be delivered out of the press, one such copy, and,
- (b) if within one calendar year from such day the Local Government shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the Local Government on the printer, another such copy, or two other such copies, as the Local Government may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed

“ The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid which may be necessary to enable him to comply with the requirements aforesaid

“ Nothing in the former part of this section shall apply to—

- (2) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, prints or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act or

- (ii) any periodical work published in conformity with the rules laid down in section 5 of this Act

Receipt for
copies
delivered
under last
foregoing
section

“ 10 The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor

Disposal of
copies
delivered
under
section 9

“ 11 The copy delivered pursuant to clause (a) of the first paragraph of section 9 of this Act shall be disposed of as the Local Government shall from time to time determine

"Any copy or copies delivered pursuant to clause (b) of the said paragraph shall be transmitted to the British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be."

5. For sections 16 and 17 of the said Act the following shall be substituted, namely —

Substitution
of new
sections for
sections 16
and 17
Act XXV,
1867

"16 If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorised by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered

Penalty
for not
delivering
books or, not
supplying
printer with
maps

"If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied

"17 Any sum forfeited to the Government under the last foregoing section may be recovered, under the warrant of the Magistrate determining the sum or of his successor in office, in the manner authorised by the Code of Criminal Procedure¹ for the time being in force and within the period prescribed by the Indian Penal Code, for the levy of a fine

Recovery of
forfeitures
and disposal
thereof and
of fine

"All fines or forfeitures under this Part of this Act shall when recovered, be disposed of as the Local Government shall from time to time direct"

6. In section 18 of the said Act there shall be substituted for the words and figure "pursuant to section 9" the words letter and figure "pursuant to clause (a) of the first paragraph of section 9," and for the

Amendment
of section 18,
Act XXV,
1867

¹ See now the Code of Criminal Procedure 1893 (Act 5 of 1893)

words "copies thereof in manner aforesaid" the words, letter and figure "copy thereof pursuant to clause (a) of the first paragraph of section 9".

7. [Repeal of section 22, Act XXV, 1867] Rep by the Repealing and Amending Act, 1891 (XII of 1891)

ACT No VI of 1890¹

[21st March, 1890]

An Act for the Prevention of Cruelty to Animals

WHEREAS it is expedient to make further provision for the prevention of cruelty to animals, It is hereby enacted as follows —

1 (1) This Act may be called the Prevention of Cruelty to Animals Act, 1890

(2) This section extends to the whole of British India and the Local Government may by notification in the official Gazette, extend, on and from a date to be specified in the notification, the whole or any part of the rest of this Act to any such local area as it thinks fit

(3) When any part of this Act has been extended under sub section (2) to a local area the Local Government may, by notification in the official Gazette, direct that the whole or any part of any other enactment in force in the local area for the prevention of cruelty to animals shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the local area, and such whole or part shall cease to have effect accordingly until the Local Government by a like notification otherwise directs

India, 1890 Pt V, p 4,
Proceedings in Council,

cept the Shan States) by
had previously been ex
93 Pt I, p 94]

The Act has been declared in force in British Baluchistan, by s 3 of the British Baluchistan Laws Regulation, 1913 (2 of 1913) Bal Code

It has been declared in force in the Sonthāl Parganas by s 3 of the Sonthāl Parganas Settlement Regulation (3 of 1872) as amended by the Sonthāl Parganas Justice and Laws Regulation, 1899 (3 of 1899) B & O Code Vol I

¹ 22 and 9 of 1923

² As to extension of the rest of the Act, see different local Rules and Orders

(4) The Local Government may cancel or vary a notification¹ under sub section (2) or sub section (3)

2 In this Act unless there is something repugnant in the subject or context,—

(1) "animal" means any domestic or captured animal and

(2) "street" includes any way road lane, square court, alley, passage or open space whether a thoroughfare or not, to which the public have access

3 If any person in any street or in any other place, whether open or closed, to which the public have access or within sight of any person in any street or in any such other place —

(a) cruelly and unnecessarily beats overdrives overloads or otherwise ill treats any animal, or

(b) binds or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(c) offers exposes or has in his possession for sale any live animal which is suffering pain by reason of mutilation, starvation or other ill treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner

Penalty for cruelty to animals in public places and for sale in such places of animals killed with unnecessary cruelty

4 he shall be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months or with both

4 If any person performs upon any cow the operation called phuka he shall be punished with fine which may extend to one hundred rupees or with imprisonment which may extend to three months or with both

Penalty for practising phuka

5 If any person kills any animal in an unnecessarily cruel manner he shall be punished with fine which may extend to two hundred rupees or with imprisonment for a term which may extend to six months or with both

Penalty for killing animals with unnecessary cruelty anywhere

5[A. If any person has in his possession the skin of a goat and has reason to believe that the goat has been killed in an unnecessarily cruel manner he shall be punished with fine which may extend to one hundred

Penalty for being in possession of the skin of a

¹ For orders cancelling such notifications in—
Bengal see Ben R and O
" " " " " " " " " " " "

goat killed
with unneces-
sary cruelty

Presumptions
as to posses-
sion of the
skin of a goat

rupees, or with imprisonment which may extend to three months, or with both, and the skin shall be confiscated]

¹[5B. If any person is charged with the offence of killing a goat contrary to the provisions of section 5, or with an offence punishable under section 5A, and it is proved that such person had in his possession, at the time the offence was alleged to have been committed, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary be proved, that such goat was killed in an unnecessarily cruel manner and that the person in possession of such skin had reason so to believe]

Penalty for
employing
anywhere
animals un-
fit for labour

6 (1) If any person employs in any work or labour any animal which by reason of any disease, infirmity wound, sore or other cause is unsuitable to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees

(2) The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against sub section (1) have been committed

(3) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is in his opinion, or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed

(4) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency-town, the Commissioner of Police may from time to time prescribe

(5) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost

(6) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale

7. If any person wilfully permits any animal of which he is the owner to go at large in any street while the animal is affected with con-

¹ This section was inserted by s 2 of the Prevention of Cruelty to Animals (Amendment) Act, 1917 (14 of 1917)

² For notifications under this sub-section appointing infirmaries, see different local Rules and Orders

Penalty for
permitting
diseased

tagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal of which he is the owner to die in any street, he shall be punished with fine which may extend to one hundred rupees

an mals to go at large or to die in public places.

[7A. If a police officer, not below the rank of sub-inspector, has reason to believe that an offence under section 5, in respect of a goat, is being or is about to be, or has been, committed in any place, or that any person has in his possession the skin of a goat with any part of the skin of the head attached thereto, he may enter and search such place or any place in which he has reason to believe any such skin to be, and may seize any such skin and any article or thing used or intended to be used in the commission of such offence]

Special power of search and seizure in respect of certain offences

8 (1) If a Magistrate of the first class, Sub divisional Magistrate, Commissioner of Police or District Superintendent of Police upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 4 section 5 or section 6 is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorise any police-officer above the rank of a constable to enter and search the place

Search warrants

(2) The provisions of the Code of Criminal Procedure, 1882, relating to searches under that Code shall so far as those provisions can be made applicable, apply to a search under sub section (1) [or under section 7A]

9 A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence

Limitation for prosecutions

10 When any Magistrate Commissioner of Police or District Superintendent of Police has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if in his opinion its sufferings are such as to render such a direction proper

Destruction of suffering animals

11 Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race sect tribe or class

Saving with respect to religious rites and usages

12 Notwithstanding anything in section 1 sections 9 10 and 11 shall extend to every local area in which any section of this Act constitutes an offence is for the time being in force

Provision supplementary to section 1 with respect to extent of Act

¹ This section was inserted by s 3 of the Prevention of Cruelty to Animals (Amendment) Act 1917 (14 of 1917)

² See now the Code of Criminal Procedure 1898 (Act 5 of 1898)

³ These words were added by s 4 of the Prevention of Cruelty to Animals (Amendment) Act 1917 (14 of 1917)

ACT No XIII OF 1890¹

[28th March 1890]

An Act² * * * * to apply to Malt Liquor certain provisions of the Sea Customs Act, 1878, respecting spirit

WHEREAS it is expedient² * * * * to apply to malt liquor certain provisions of the Sea Customs Act, 1878, respecting spirit, It is hereby enacted as follows —

Title

*1 (1) This Act may be called the Excise (Malt Liquors) Act, 1890, *⁴

* * * *

2—5 [Amendment of the Excise Act, 1881 (XIII of 1881)] Rep in the Excise Act 1896 (XII of 1896)

6—7 [Amendment of the Bengal Excise Act, 1878] Rep in Bengal by Ben Act 5 of 1909, and in Assam by E B & A Act I of 1910, s 2

8 [Saving of legislative authority of Bengal Council] Rep in Bengal by Ben Act 5 of 1909 and in Assam by E B & A Act I of 1910, s 2

Drawback of Excise duty on Export of Malt Liquor

Application of provisions of section 150 Act XIII 1878 to malt liquor

9 The provisions of section 150 of the Sea Customs Act 1878, with VII respect to the allowance of a drawback of excise duty paid on spirit manufactured in British India and exported to a foreign port and with respect to the regulation of the drawback by the quantity of such spirit, shall apply also so far as they can be made applicable to fermented liquor made in British India from malt and so exported and to the drawback of the excise duty paid on such liquor

¹ For State for Debates in has been declared (3 of 1913) B Burma Laws

² The words "to amend the Excise Act 1881 and the Bengal Excise Act 1878 and in the Title and Preamble were repealed by the Repealing and Amending Act 1914 (10 of 1914)

³ Sections 1, 6, 7 and 8 were declared in force in the Sonthal Parganas — Regulation 3 of 1872 s 3, as amended by the Sonthal Parganas Justice and Laws Regulation 1899 (3 of 1899) s 3 B & O Code but sections 6, 7 and 8 having been repealed the Act has no application in the Sonthal Parganas

⁴ The word "and" at the end of sub-section (1), and sub-section (2) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

1890: Act XVI.] *Births, Deaths and Marriages Registration* 173

1891: Act I.] *Cattle-trespass*

ACT No XVI of 1890 ¹

[11th September, 1890]

An Act to amend the Births, Deaths and Marriages Registration Act, 1886

WHEREAS it is expedient to amend the Births, Deaths and Marriages Registration Act, 1886, It is hereby enacted as follows —

1 In section 32 of the said Act, for the words “within one year from the date on which this Act comes into force,” the words “at any time before the first day of April, 1891,” shall be substituted

Amendment of section 32, Act VI, 1886

2. [Addition of new section 35A to Act VI, 1886] Rep by s 3 of the Devolution Act, 1920 (38 of 1920)

ACT No I of 1891 ²

[30th January, 1891]

An Act to amend the Cattle-trespass Act, 1871, and incorporate therein ³Act XVIII of 1883

WHEREAS it is expedient to amend the Cattle-trespass Act, 1871, and incorporate therein Act XVIII of 1883 (to amend the Cattle trespass Act, 1871) It is hereby enacted as follows —

1 For section 1 of the Cattle trespass Act, 1871, the following shall be substituted, namely —

Substitution of new section for section 1, Act I, 1871
Title and extent.

“1 (1) This Act may be called the Cattle-trespass Act, 1871, and

¹ Short title The Births Deaths and Marriages Registration Act (1886)
14 of 1897)
90, Pt V, p 127,

in Upper Burma
Bur Code
is by s 3 of the
d by the Sonthāl
Code, Vol I
See the Indian

90, Pt V, p 104,
id for Proceedings
VI p 9
) as being part of
the Burma Laws

Act I of 1891 (10 of 1890) is in force

The Act, as being part of the principal Act I of 1871 (1871) is in force in the Christian Bur Code. It has also (except ss 10, 11) the Sonthāl Parganas by s 3 of the Sonthāl P. of 1872) as amended by the Sonthāl Parganas J. (3 of 1890), B & O Code Vol I

The Act as being part of the principal Act I of 1871 is in force in the Angul District—see Angul Laws Regulation 1913 (3 of 1913) B & O Code Vol I

² Rep by s 10 of this Act

(2) It extends to the whole of British India except the Presidency-towns and such local areas as the Local Government, by notification in the official Gazette, may from time to time exclude from its operation

(3) The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under sub section (2) "

2 To section 3 of the said Act the following shall be added, namely —

" , and

" ' Local authority ' means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area, and

" ' Local fund ' means any fund under the control or management of a local authority "

3 In section 10 of the said Act, for the words " take them or cause them to be taken without unnecessary delay " the words " send them or cause them to be sent within twenty four hours " shall be substituted

4 In section 11 of the said Act for the words " take them without unnecessary delay " the words " send them or cause them to be sent within twenty four hours " shall be substituted

5 [Additions to section 12 Act I, 1871] Rep by the Cattle trespass (Amendment) Act, 1921 (17 of 1921)

6 For Chapter V of the said Act the following shall be substituted, namely —

" CHAPTER V

" COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION

" 20 Any person whose cattle have been seized under this Act, or, having been so seized have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure make a complaint to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District

" 21 The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate

" If the Magistrate, on examining the complainant or his agent sees reason to believe the complaint to be well founded, he shall summon the person complained against and make an enquiry into the case

" 22 If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or

Additions to
section 3
Act I 1871

Amendment
of sect on 10
Act I 1871

Amendment
of section 11
Act I 1871

Substitution
of new
Chapter for
Chapter V
Act I 1871

Power to
make com-
plaints

Procedure on
complaint.

Compensa-
tion for
illegal

detention, reasonable compensation not exceeding one hundred rupees to be paid by the person who made the seizure or detained the cattle, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle,

seizure or
detention.

and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle

Release of
cattle

" 23 The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate "

Recovery of
compensa-
tion

7. In section 25 of the said Act the words " under the next following section or " shall be inserted between the words " Any fine imposed " and the words " for the offence of mischief "

Amendment
of section 25,
Act I 1871

8 To section 26 of the said Act the following shall be added, namely —

Addition to
section 26
Act I 1871

" The Local Government, by notification in the official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification instead of to pigs only or as if the words ' fifty rupees ' were substituted for the words ' ten rupees ' or as if there were both such reference and such substitution

" The Local Government may at any time by notification in the official Gazette, cancel or vary a notification under this section "

9 After Chapter VII the following shall be added, namely —

Addition of
new Chapter
after Chapter
VII Act I
1871

" CHAPTER VIII

" SUPPLEMENTAL

" 31 The Local Government may, from time to time by notification in the official Gazette,—

Power for
Local Gov-
ernment to
transfer cer-
tain func-
tions to local
authority
and direct
credit of
surplus re-
ceipts to
local fund

(a) transfer to any local authority within any part of the territories under its administration in which this Act is in operation all or any of the functions of the Local Government or the Magistrate of the District under this Act within the local area subject to the jurisdiction of the local authority, or

(b) direct that the whole or any part of the surplus accruing in any district under section 18 of this Act shall be placed to

the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district

and may from time to time by notification in the official Gazette cancel or vary any notification under this section'

Repeal of
Act XVIII
1883

10 Act XVIII of 1883 (*to amend the Cattle trespass Act 1871*) is hereby repealed

Provided that orders which have been made and notified under that Act by the Local Government and are in force immediately before the commencement of this Act shall be deemed to have been made under the Cattle trespass Act 1871 as amended by this Act

11 [Amendment of section 6 (3) Act XIII 1889] Rep by the Cantonments Act 1910 (15 of 1910)

Saving of
references

12 Any enactment or document referring to the Cattle trespass Act 1871 or to Act XVIII of 1883 (*to amend the Cattle trespass Act 1871*), shall be construed to refer to the Cattle trespass Act 1871 as amended by this Act

Commence
ment

13 This Act shall come into force on the first day of April 1891

ACT No II of 1891

[6th February 1891]

An Act to amend the Indian Christian Marriage Act 1872

WHEREAS it is expedient to amend the Indian Christian Marriage Act 1872 It is hereby enacted as follows —

1 (1) For section 6 of the Indian Christian Marriage Act 1872 the following shall be substituted namely —

"6 The Local Government so far as regards the territories under its administration and the Governor General in Council so far as regards

Short title The Indian Christian Marriage Act (18 2) Amendment Act 1891
See the Indian Short Titles Act 1897 (14 of 1897)

Substitution
of new sec
tion for sec
tion 6 Act
XV 1872
Grant and re
vocation of
licences to

Act V p 110
Proceedings
p 5 and 15
being part of
Act 1893

is in force in British
the Sonthal Parganas
1872), as amended by
1899) B & O Code

any Native State, may, by notification in the local official Gazette or in the Gazette of India as the case may be, grant licenses to Ministers of Religion to solemnize marriages within such territories and State, respectively, and may, by a like notification, revoke such licenses "

(2) A license to solemnize marriages granted to a Minister of Religion under Act XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*) shall be deemed, if in force on the day on which the Indian Marriage Act, 1865, came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the day on which the Indian Christian Marriage Act, 1872, came into force, to have been, since that Act came into force, a license granted under that Act

(3) A license to solemnize marriages granted to a Minister of Religion under Act XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*), the Indian Marriage Act, 1865, or the Indian Christian Marriage Act, 1872, shall, if in force immediately before the commencement of this Act, be deemed to have been granted under the Indian Christian Marriage Act, 1872, as amended by sub section (1) of this section

(4) [*Repeal of Act XV of 1884*] *Rep by the Repealing and Amending Act, 1891 (XII of 1891)*

2 To the proviso to section 10 of the said Act the following shall be added namely —

Addition to
proviso to
section 10
Act XV
1872

" or

(3) a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of the Church of Scotland "

3 In section 11 of the said Act, after the words " other than a church " the words " where worship is generally held according to the forms of the Church of England " shall be added and between the word " no " and the word " church " in the expression " unless there is no church " the word " such " shall be inserted

Amendment
of section 11,
Act XV
1872

4 (1) For section 62 of the said Act the following shall be substituted, namely —

Substitution
of new sec-
tion for sec-
tion 62 Act
XV 1872

" 62 (1) Every person licensed under section 9 shall keep in English or in the vernacular language in ordinary use in the district or State in which the marriage was solemnized and in such form as the Local Government by which he was licensed may from time to time

keep in of
register book
and deposit
of extracts

therefrom
with Regis-
trar General.

prescribe, a register-book of all marriages solemnized, under this Part in his presence, and shall deposit in the office of the Registrar-General of Births, Deaths and Marriages for the territories under the administration of the said Local Government, in such form and at such intervals as that Government may prescribe, true and duly authenticated extracts from his register-book of all entries made therein since the last of those intervals

“(2) Where the person keeping the register-book was licensed as regards a Native State by the Governor General in Council, references in sub-section (7) to the Local Government therein mentioned shall be read as references to the Local Government to whose Registrar-General of Births, Deaths and Marriages certified copies of entries in registers of births and deaths are for the time being required to be sent under section 24, sub-section (2), of the Births, Deaths and Marriages Registration Act, 1886”

1* * * * *

5. For section 66 of the said Act the following shall be substituted, namely —

Substitution
of new
section for
section 66,
Act, XV,
1872

“66 Whoever, for the purpose of procuring a marriage or license of marriage, intentionally,—

False oath,
declaration,
notice or
certificate for
procuring
marriage

(a) where an oath or declaration is required by this Act, or by any rule or custom of a Church according to the rites and ceremonies of which a marriage is intended to be solemnized, such Church being the Church of England or of Scotland or of Rome, makes a false oath or declaration, or,

(b) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be deemed to have committed the offence punishable under section 193 of the Indian Penal Code with imprisonment of either description X for a term which may extend to three years and, at the discretion of the Court, with fine.”

6. For section 68 of the said Act the following shall be substituted, namely.—

Substitution
of new sec-
tion for sec-
tion 68, Act
XV, 1872

“68. Whoever, not being authorized by section 5 of this Act to solemnize marriages, solemnizes or professes to solemnize, in the absence of a Marriage Registrar of the district in which the ceremony takes

Solemnizing
marriage
without due
authority.

¹Sub-section (2) of s 4, which repeals cl (c) of s 30 of the Births, Deaths and Marriages Registration Act, 1886, was repealed by the Repealing and Amending Act, 1891 (12 of 1891)

place, a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years, and not exceeding ten years

or, if the offender is an European or American, with penal servitude according to the provisions of Act XXIV of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts*),

and shall also be liable to fine ”

7. To section 69 of the said Act the following shall be added, namely — Addition to
section 69,
Act XV,
1872

“ Nor does this section apply to marriages solemnized by a Clergyman of the Church of Scotland according to the rules, rites, ceremonies and customs of the Church of Scotland ”

8 (1) For clause (2) of section 71 of the said Act the following shall be substituted, namely — Amendment
of sections
71 and 72,
Act XV,
1872

“ (2) after the expiration of two months after the copy of the notice has been entered as required by section 40 in respect of any marriage solemnizes such marriage ”

(2) In section 72 of the said Act, for the words “ three months ” the words “ two months ” shall be substituted

9 To section 74 of the said Act the following shall be added, namely — Addition to
section 74
Act XV,
1872

“ Whoever being licensed to grant certificates of marriage under Part VI of this Act without just cause refuses or wilfully neglects or omits, to perform any of the duties imposed upon him by that Part, shall be punished with fine which may extend to one hundred rupees ”

10 [Amendment of section 86, Act XV, 1872] Rep by the Devolution Act, 1920 (38 of 1920)

ACT No III of 1891¹

[13th February, 1891]

An Act to amend the Indian Evidence Act, 1872, * * * .

WHEREAS it is expedient to amend the Indian Evidence Act, 1872,¹
 * * * . It is hereby enacted as follows —

* * * *

Amendment
 of section 14,
 Act I, 1872

1 (1) For the *Explanation* to section 14 of the Indian Evidence Act, 1872, the following shall be substituted, namely —

“*Explanation 1*—A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question

“*Explanation 2*—But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this section, the previous conviction of such person shall also be a relevant fact”

(2) For *Illustration (b)* to the same section the following shall be substituted, namely —

“(b) A is accused of fraudulently delivering to another person a counterfeit coin which at the time when he delivered it, he knew to be counterfeit

The fact that at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin is relevant

The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant”

¹ Short title, “The Indian Evidence Act (1872) Amendment Act, 1891” See the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons, see Gazette of India, 1890 Pt V, p 100, for the Report of the Select Committee, see *ibid*, 1891, Pt V, p 25 and for Proceedings in Council, see *ibid*, 1890, Pt VI, pp 105 and 144, *ibid*, 1891, Pt VI, pp 17 and 21

So far as it is in force in Upper Burma (except the Shan States) it is declared in force there by the Burma Laws Act, 1891 in British Baluchistan Bal Code, in the Angul

It has also been declared in force in the Sonthal Parganas by s 3 of the Sonthal Parganas Settlement Regulation (3 of 1872), as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), R & O Code, Vol I

It has been declared applicable to Hill tribes in the Kachin Hill tracts of Upper Burma see Schedule to the Kachin Hill tribes Regulation, 1895 (1 of 1895), Bur Code, to Chins in the Chin Hills of Upper Burma see Schedule to the Chin Hills Regulation 1896 (5 of 1896) Bur Code, in the Chittagong Hill Tracts see the Chittagong Hill Tracts Regulation, 1900 (1 of 1900) Bon Code, Vol I

The words “and the Code of Criminal Procedure, 1892” in the Title and preamble were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

The heading “Indian Evidence Act 1872” was repealed by the Repealing and Amending Act 1914 (10 of 1914)

2. In section 15 of the said Act, after the word "intentional," there shall be inserted the words "or done with a particular knowledge or intention". Amendment of section 15, Act I, 1872

3. To section 26 of the said Act the following shall be added, namely — Addition to section 2, Act I, 1872

"*Explanation*—In this section 'Magistrate' does not include the head of a village discharging magisterial functions in the Presidency of Fort St George or in Burma or elsewhere, unless such headman is a Magistrate exercising the powers of a Magistrate under the 'Code of Criminal Procedure, 1882'"

4. In section 30 of the said Act, immediately before the *Illustrations*, the following shall be inserted, namely — Addition of *Explanation* to section 30, Act I, 1872

"*Explanation*—'Offence' as used in this section includes the abetment of, or attempt to commit, the offence"

5. To section 43 of the said Act the following *Illustrations* shall be added, namely — Addition to section 43, Act I 1872

'(e) A is charged with theft and with having been previously convicted of theft. The previous conviction is relevant as a fact in issue'

'(f) A is tried for the murder of B. The fact that B prosecuted A for libel and that A was convicted and sentenced is relevant under section 8 as showing the motive for the fact in issue"

6. For section 54 of the said Act the following shall be substituted, namely — Substitution of new section for section 54, Act I, 1872

"54. In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant"

"*Explanation 1*—This section does not apply to cases in which the bad character of any person is itself a fact in issue"

"*Explanation 2*—A previous conviction is relevant as evidence of bad character"

7. In the *Explanation* to section 55, after the word "but" there shall be inserted the words and figures "except as provided in section 54". Amendment of *Explanation* to section 55, Act I 1872

8. In section 86 of the said Act for the words "resident in" the words "in or for" shall be substituted. Amendment of section 86, Act I 1872

9. [Amendment of section 310 Act V, 1882] Rep by the Code of Criminal Procedure 1898 (Act 5 of 1898)

¹ See now the Code of Criminal Procedure 1898 (Act 5 of 1898).
² The words "and to the same section the following shall be added, namely and the addition were repealed by s. 5 of the Indian Evidence Act 1892 (5 of 1892).
³ The heading "Code of Criminal Procedure 1882" was repealed by the Repealing and Amending Act 1914 (10 of 1914).

ACT No VII or 1891¹

[6th March, 1891]

An Act to amend Act X of 1841

WHEREAS it is expedient to amend the Act of the Governor General in Council No X of 1841 (*an Act for prescribing the rules to be observed in order that ships or vessels belonging to ports within the territories under the Government of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council made in pursuance of the Statute 3rd and 4th Vict, c 56*), It is hereby enacted as follows —

1 [Repeal of a word in section 2, Act X of 1841] Rep by the Repealing and Amending Act, 1891 (XII of 1891)

2 For that portion of section 3 of the said Act, beginning with the words "the persons now authorised" and ending with the words "such other or different persons", the words "such persons" shall be substituted

Amendment of section 3, Act X of 1841

Substitution of new sections for sections 8 to 12 Act X of 1841

Certificate of surveying officer

Measurement of tonnage for purpose of registry

3 For sections 8 to 12 both inclusive, of the said Act the following shall be substituted namely —

"8 The certificate of the surveying officer shall be in the form in the schedule to this Act or in such other form as the Governor General in Council may from time to time prescribe, and such certificate shall be delivered to the registering officer before registry

"9 Subject to the provisions of section 70 of Act I of 1859 (*an Act for the amendment of the law relating to Merchant Seamen*) as amended by section 9 of the Indian Merchant Seamen's Act, 1876, the tonnage of a ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained according to such of the rules and orders for the time being in force in and under the Merchant Shipping Act, 1854, as amended by subsequent Acts [including the Merchant Shipping (Tonnage) Act, 1889], as apply to measurement of tonnage for the purpose of registry

¹ Short title "The Indian Registration of Ships Act (1841) Amendment Act, 1891" See the Indian Short Titles Act 1897 (14 of 1897)

For Statement of Objects and Reasons see Gazette of India 1890 Pt V p 243 for Report of the Select Committee see *ibid*, 1891 Pt V p 39, and for Proceedings in Council see *ibid*, 1891, Pt VI pp 2 26 30 and 33

² Rep as to all H M s dominions by S L R (No 7) of 1890

³ See now the Merchant Shipping Act, 1894 (57 & 58 Vict, c 60), Coll Stat, Vol II

"10 Subject to the provisions referred to in the last foregoing section, the tonnage of a ship or vessel requiring to be measured for any purpose other than registry shall be measured and ascertained according to such of the rules and orders for the time being in force in and under the 'Merchant Shipping Act, 1854, amended as aforesaid, as apply to measurement of tonnage for a purpose other than registry

"11 The rules and orders referred to in section 9 and section 10 of this Act shall, in their application to measurement of tonnage for the purposes of this Act, or of any enactment, rule or order referring to this Act, be read and construed as if the Governor General in Council were therein named instead of the Board of Trade or the authority for which the Board of Trade has been substituted by section 3 of the 'Merchant Shipping Act, 1872

"12 The true amount of the register tonnage of every ship or vessel to be measured and ascertained according to the rules and orders referred to in section 9 of this Act shall be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel prior to her being registered"

4. In section 14 of the said Act, to the word "tonnage", wherever it occurs, the word "register" shall be prefixed, and for the words "rules herein prescribed" the words "said rules and orders" shall be substituted

5. In section 15 of the said Act, " * * * for the words and figures "Act No II of 1839" the words "the law for the time being in force for the recovery of fines imposed by Criminal Courts" shall be substituted

6. (1) * * *

(2) To [section 17 of the said Act] the words 'recoverable as aforesaid' shall be added

7. In section 23 of the said Act, after the words "ten thousand rupees" the words "recoverable as aforesaid" shall be inserted

8. In section 24 of the said Act, " * * * for the words "for the Governor of Fort William in Bengal or for the Governor in Council of any presidency" and for the words "for the Governor of Fort William in Bengal or the Governor in Council of any presidency" the words "for a Local Government" shall be substituted

¹ See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c 60), Coll Stat, Vol 11

² The words, "the words 'or the East India Company' are hereby repealed, and" were repealed by the Repealing and Amending Act 1891 (12 of 1891)

³ Sub-section (1) was repealed by the Repealing and Amending Act, 1891 (12 of 1891)

⁴ These words were substituted for the words "the same section" by the Amending Act 1891 (12 of 1891)

⁵ The words "the words 'issued under the Company's seal and' are hereby repealed, and" were repealed by the Repealing and Amending Act, 1891 (12 of 1891)

Measurement of tonnage for purpose other than registry

Substitution of Governor General in Council for Board of Trade

Marking of register tonnage on ship or vessel

Amendment of section 14, Act X of 1841

Amendment of section 15, Act X of 1841

Amendment of section 17, Act X of 1841

Amendment of section 23, Act X of 1841

Amendment of section 24, Act X of 1841

Addition to
Act X of
1841

Definition of
"Local Government"

9 After section 26 of the said Act, and before the Proclamation, the following shall be inserted, namely —

"27 The expressions 'Local Government,' 'Local Governments of India' and 'Government of the Presidency,' as used in this Act, shall be deemed to include, and to have always included, every person who is a 'Local Government' as defined in section 2, clause (10), of the 'General Clauses Act, 1868'"

"THE SCHEDULE

(See section 8)

ACT X, 1841

Certificate of Survey

Name of Ship	Port of intended Registry	Official number, if there has been any former Registry		
Whether a Sailing or Steam Ship and if a Steam Ship how propelled	Where Built	When Built	Name and Address of Builders	
Number of Decks	Length from fore part of stem under the bow sprit, to the aft side of the head of the stern post Main breadth to outside of plank Depth in hold from tonnage deck to ceiling at midships Depth in hold from upper deck to ceiling at midships in the case of three decks and upward Length of engine room if any	Feet	Tenths	
Number of Masts				
Rigged				
Stern				
Build				
Galleries				
Head				
framework				

PARTICULARS OF ENGINES (IF ANY)

No of Engines	Description	Whether British or Foreign made	When made	Name and Address of Makers	Diameter of Cylinders	Length of Stroke	No of Horses Power (combined)
			Engines				
			Boilers				

¹ See now the General Clauses Act, 1897 (10 of 1897)

PARTICULARS OF TONNAGE

Gross Tonnage	No of Tons	Deduction allowed	No of Tons
Under Tonnage Deck Closed in spaces above the Tonnage Deck, if any Space or spaces between Decks . Poop Forecastle . Pound House Other closed in spaces, if any, as follows		On account of space required for propelling power On account of spaces occupied by Seamen or Apprentices and ap- propriated to their use and kept free from goods or stores of every kind not being the per- sonal property of the Crew These spaces are the following, namely —	
Gross Tonnage		Cubic metres	
Deduction as per contra			
Registered Tonnage		TOTAL	

I, the undersigned—
having surveyed the above-named Ship, hereby certify that the above particulars
are true

Dated at _____
this _____ day of }
_____ 18_____

Surveyor "

ACT No IX of 1891¹

[13th March, 1891.]

An Act to amend the Indian Merchandise Marks Act, 1889,
and the Sea Customs Act, 1878

WHEREAS it is expedient to amend the Indian Merchandise Marks
Act, 1889, and the Sea Customs Act, 1878; It is hereby enacted as
follows:—

1. [Repeal of part of section 1, Act IV, 1889] *Rep by the Repeal-
ing and Amending Act, 1914 (10 of 1914)*

¹ Sea Customs Acts Amend
17 (XIV of 1897)
of India 1891 Pt V, p 4,
V, p 29, and for Proceed-
an States) as being part of
force there by the Burma

2 [Repeal of section 19, Act IV, 1889] Rep by the Repealing and Amending Act, 1914 (10 of 1914)

Amendment of section 18 (e) (ii) Act VIII, 1878

3. In clause (c), sub clause (ii), of section 18 of the Sea Customs Act, 1878, as amended by section 10, sub section (I), of the Indian Merchandise Marks Act, 1889, for the words "that place and the country in which it is situated are" the words "the country in which that place is situated is" shall be substituted

Additions to Act IV 1889

4 After section 18 of the Indian Merchandise Marks Act, 1889, as amended by this Act, the following shall be added, namely —

Definition of piece goods

" 19 For the purposes of section 12 of this Act, and clause (f) of section 18 of the Sea Customs Act, 1878, as amended by this Act, the Governor General in Council may, by notification in the Gazette of India, declare what classes of goods are included in the expression 'piece goods, such as are ordinarily sold by length or by the piece'

Determination of character of goods by sampling

' 20 (1) The Governor General in Council may make rules, for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples

(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub section (1) the Court or officer of customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods, shall by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected

" (3) The average of the results of the testing in pursuance of rules under sub section (1) or of an order under sub section (2) shall be *prima facie* evidence of the number, quantity, measure, gauge or weight, as the case may be of the goods

" (4) If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub section (1) or of an order under sub section (2) desires that any further samples of the goods be selected and tested, they shall, on his written application and on the payment in advance by him to the Court or officer of customs as the case may be, of such sums for delaying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor General in Council in this behalf or as, in the case of goods with respect to which provision is not made in such rules, the Court or officer of customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub section (1), or in sub section (2), as the case may be

“(5) The average of the results of the testing referred to in sub section (3) and of the further testing under sub section (4) shall be conclusive proof of the number quantity measure, gauge or weight as the case may be of the goods

“(6) Rules under this section shall be made after previous publication

“21 An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act

“22 If any person, being within British India abets the commission without British India, of any act which, if committed in British India, would under this Act or under any section of that part of Chapter XVIII of the Indian Penal Code which relates to trade, property and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and he punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted”

ACT No X or 1891 :

[19th March, 1891]

An Act to amend the Indian Penal Code, * * * *

WHEREAS it is expedient to Amend the Indian Penal Code * * *, It is hereby enacted as follows —

Indian Penal Code

1 In section 375 of the Indian Penal Code, in the clause marked Fifthly and in the Exception, the word “twelve” shall be substituted for the word “ten”

Amendment of section 375 Act XLV, 1860.

* * * * *

Short Title ‘The Indian Criminal Law Amendment Act 1891’ See the Indian Short Titles Act 1897 (14 of 1897)

1891 Pt V p 5
revises in Council,
1 pp 6 and 39
Birma (except the
Code in British
in the Southern
on (3 of 1872) as
1899 (3 of 1899)

B & O Code, Vol 1

*The rest of the title and preamble relates to the Code of Criminal Procedure 1897 (Act 10 of 1897) which was repealed by the Code of Criminal Procedure, 1933 (Act 5 of 1933)

*The rest of the Act ss 2 and 3 was repealed by the Code of Criminal Procedure 1898 (Act 5 of 1898)

ACT No XII of 1891¹

[21st March, 1891]

An Act * * * to amend certain *² Enactments
 * * * * *

*³ WHEREAS it is *³ expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act,

It is hereby enacted as follows —

Title and
extent

1 (1) This Act may be called the * *⁴ Amending Act, 1891

(2) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India, inclusive of Upper Burma and British Baluchistan, *⁵ —

* * * *

Enactments
in schedule
amended.

2 (1) [Enactments repealed] Rep, Act 1 of 1903

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof but nothing in this sub-section shall affect any Act passed after this Act comes into force by the Governor of Madras in Council, the Governor of Bombay in Council, the Lieutenant Governor of Bengal in Council or the Lieutenant Governor of the North Western Provinces and Oudh in Council

* * * * *

3 [Savings] Rep by the Repealing and Amending Act, 1903 (1 of 1903)

THE FIRST SCHEDULE

ENACTMENTS REPEALED

(Rep, Act 1 of 1903)

For Statement of Objects and Reasons see Gazette of India 1890 Pt V p 214 for Report of the Select Committee see *ibid* 1891 p 60 and for Proceedings in Council see *ibid* 1890 Pt VI p 142 and *ibid* 1891 p 111

The Act has been declared in force in the Sonthal Parganas by s 3 of the Sonthal Parganas Settlement Regulation (3 of 1872) as amended by the Sonthal Parganas Justice and Laws Regulation 1899 (3 of 1899) B & O Code, Vol I

The Act so far as it may be applicable has been extended to the Shan States, by the Shan States Laws and Criminal Justice Order, 1895,—see Shan States Manual

¹ In the title the words 'to repeal certain Obsolete Enactments and' and the word 'other' were repealed by the Repealing and Amending Act 1903 (1 of 1903) s 4 3rd Schedule

² The portion of the Preamble relating to repeals and the words 'and' and 'also' were repealed by the Repealing and Amending Act 1903 (1 of 1903) s 4

³ The words 'Repealing and' were repealed by the Repealing and Amending Act 1903 (1 of 1903) s 4

⁴ The words 'and' at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

⁵ For the Lieutenant Governor of Bengal and the Lieutenant Governor of the Oudh now read respectively the Governor of United Provinces of Agra and Oudh. The local laws in this sub-section are now impressed as passed by the Repealing and Amending Act 1914 (10 of 1914)

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Part I.—Acts of the Governor General in Council.

1	2	3	4
Year.	No.	Subject or title	Amendment.
1833	XIX	Assistant to Agent for Sardars, Dekkhan	<i>Add the following section—</i> 2. The provisions of the Code of Civil Procedure relating to appeals to a High Court from decrees passed in appeal shall apply, so far as may be, to appeals to the Governor in Council under this Act.
1839	VII	Talukdars, Madras	In section 6, for the three last preceding sections read sections 3 and 5.
1846	I	Pleaders . . .	In section 7, for the sections of Regulations read the section of the Regulation
1850	XIX	Binding Apprentices . . .	In section 11, for section VIII read section 9 In section 20, for and, where the word occurs before administrators, read or
1851	XII	Land revenue, Madras Town	" " " " " " Judicature at Madras.
"	"	" " " " "	" " "
1856	XX	Chaukidars . . .	In section 38 (as amended by Act XXII of 1871, section 3), for Commissioner of Circuit read Commissioner.
"	"	" " " " "	" " "

the Prisons Act,

repealed by a 3 and

THE SECOND SCHEDULE—contd.

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year	No.	Subject or title.	Amendment.
1859	XXXVII	Nawab of the Carnatic .	<p><i>For the list of names in Schedule A, read the following —</i></p> <ol style="list-style-type: none"> 1. Her Highness Nawab Khair un Nissa Begam 2. Nawab Ahmad un Nissa Begam. 3. Nawab Qadria Begam. 4. Rahim un Nissa Begam. 5. Ammal ul Ali Ahyat un Nissa Begam
1*	*	* * *	* * *
2*	*	* * *	* * *
1860	XLV	Indian Penal Code	In section 307, Illustration (c), <i>after</i> of insert the first paragraph of
1863	XX	Religious Endowments .	In section 3, <i>for</i> section I read the preamble to this Act
3*	*	* * *	* * *
4*	*	* * *	* * *
1867	III	Gambling . . .	<p>In the preamble, <i>after</i> Fort William insert and.</p> <p>In section 2, <i>for</i> Sections 13, 17 and 18 read Sections 13 and 17.</p>

* The entry relating to Act I of 1859 (Merchant Seamen) was repealed by s 2 and Sch of the Repealing Act, 1927 (12 of 1927)

* The entry relating to the Boundary marks (Madras) Act, 1860 (28 of 1860), was repealed by the Coorg Land and Revenue Regulation, 1899 (1 of 1899), Coorg Code

* The entry relating to Act 3 of 1864 (Foreigners) was repealed by s 3 and Sch II of the Repealing and Amending Act, 1920 (31 of 1920)

* The entry relating to Act 10 of 1865 (Indian Succession) was repealed by s 2 and Sch. of the Repealing Act, 1927 (12 of 1927)

THE SECOND SCHEDULE—*contd.**Part I — Acts of the Governor General in Council—contd*

1	2	3	4
Year	No	Subject or title	Amendment
1867	XXIII	Murderous Outrages, Punjab	In section 10, for the Punjab Chief Court Act, 1866, read in any other enactment for the time being in force
"	XXX	Printing Presses and Books	In section 3, before of the publisher insert the name
1868	V	Commissioner in Sindh	In the schedule, for Act VII of 1854 (for the apprehension within the territories under the Government of the East India Company of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of
"	"	" " "	" " "
"	"	" " "	" " "
1870	VII	Court fees Act 1870	For section 31 read the following — 31. (1) The Local Government may from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons (2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law

¹ This entry is repealed, so far as Act 12 of 1891 affects British Baluchistan and the North West Frontier Province by s 16 of the Frontier Murderous Outrages Regulation, 1901 (4 of 1901), —see Gazette of India, 1901, Pt I, p 853

THE SECOND SCHEDULE—contd.

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year	No	Subject or title	Amendment
1870	VII—contd	Court fees Act, 1870— contd	(3) Any person appointed to sell stamps who disobeys any rule made months, or with fine which may extend to five hundred rupees, or with both In Schedule I, Article 2, for Act No XIV of 1859 (to provide for the limitation of suits) section 15, read the Specific It maintain existing possession or to restore possession to any party dispossessed otherwise than by course of law) read the Mamlatdars' Courts Act, 1870
"	XXIV	Oudh Talukdars Relief Act	In section 12, for the words section three, in the second place in which they occur, read section 4
"	"	"	"
1870	XXVII	Amending the Indian Penal Code	In section 13, for the said sections 124A and 220A read sections 1241, 223A and 2251
"	"	"	"
1872	IV	Punjab Laws Act, 1872.	In section 50 (as amended by Act XV of 1875, section 3), for sections forty three to forty nine read sections 43 to 48
"	V	Jurisdiction over Sindh	"
"	IX	Indian Contract Act, 1872	In section 25, clause (1), for assurances read documents In section 43, first paragraph, for one read one or more

repealed by the Prisons Act,

was repealed by the Prisoners

ed by the Punjab Pre-emption

THE SECOND SCHEDULE—*contd**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No	Subject or title.	Amendment
1872	(X— <i>contd</i>)	Indian Contract Act, 1872— <i>contd</i>	In section 63, Illustration (c), for compensation read composition.
"	XV	Indian Christian Marriage Act, 1872.	In section 4, after is insert or are In Schedule III, for (See section 28) read (See sections 28 and 31)
1873	VIII	Northern India Canal and Drainage Act, 1873	In section 75, clause (3), after whom insert and
"	"	" " "	" " "
"	"	" " "	" " "
1874	XIV	Scheduled Districts Act, 1874.	After section 5 insert the following section — 5A. In declaring an enactment in force in a scheduled district or part thereof under section 3 of this Act, or in extending an enactment to a scheduled district or part thereof under section 5 of this Act, the Local Government, with the previous sanction of the Governor General in Council, may declare the operation of the enactment to be subject to such restrictions and modifications as that Government thinks fit In the first schedule, Part I, No II, for (7) The Konda Mutta of Belgam read (7) The Konda Mutta of Merang In the first schedule, Part III, No I, for Divisions read Districts
"	XV	Laws Local Extent Act, 1874	In the first schedule, Part I, No I, for Divisions read Districts

¹ The entry relating to Act 2 of 1874 was repealed by the Administrator General's Act, 1913 (3 of 1913).

² The entry relating to Act 9 of 1874 was repealed by the Repealing and Amending Act, 1920 (31 of 1920).

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title	Amendment.
1870	VII— <i>contd</i>	Court fees Act, 1870— <i>contd</i>	(3) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both. In Schedule I, Article 2, for Act No. XIV of 1859 (to provide for the limitation of suits), section 15, read the Specific Relief Act, 1877, section 9. In Schedule II, Article 4, for Bombay Act No. V of 1864 (to give Mamlatdars' Courts jurisdiction in certain cases to maintain existing possession or to restore possession to any partly dispossessed otherwise than by course of law) read the Mamlatdars' Courts Act, 1876.
"	XXIV	Oudh Talukdars' Relief Act.	In section 12, for the words section three, in the second place in which they occur, read section 4.
"	"	"	"
1870	XXVII	Amending the Indian Penal Code.	In section 13, for the said sections 124A and 223A read sections 124, 223A and 225P.
"	"	"	"
1872	IV	Punjab Laws Act, 1872.	In section 50 (as amended by Act XV of 1873, section 3), for sections forty three to forty nine read sections 43 to 48.
"	V	Jurisdiction over Sindh.	In section 2 (added by Act XX of 1872), for the Administrator General's Act, 1867, read the Administrator General's Act, 1874.
"	IX	Indian Contract Act, 1872	In section 25, clause (1), for assurances read documents In section 43, first paragraph, for one read one or more

repealed by the Prisons Act,

was repealed by the Prisoners

Act by the Punjab Pre-emption

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year	No	Subject or title	Amendment
1872	(X— <i>contd.</i>)	Indian Contract Act, 1872 — <i>contd.</i>	In section 63, Illustration (e), for <i>compensation</i> read <i>composition</i>
"	XI	Indian Christian Marriage Act, 1872	In section 4, after <i>is</i> insert <i>or are</i> In Schedule III, for (See section 28) read (See sections 28 and 31)
1873	VIII	Northern India Canal and Drainage Act, 1873	In section 75, clause (3), after <i>whom</i> insert <i>and</i>
"	"	" " "	" " "
"	"	" " "	" " "
1874	XIV	Scheduled Districts Act, 1874	After section 5 insert the following section — 5A In declaring an enactment in force in Modification of a scheduled district or enactments in the part thereof under section 3 of this Act, or application to the scheduled districts in extending an enactment to a scheduled district or part thereof under section 5 of this Act, the Local Government, with the previous sanction of the Governor General in Council, may declare the operation of the enactment to be subject to such restrictions and modifications as that Government thinks fit In the first schedule, Part I, No II, for (7) The Konda Mutta of Belgam read (7) The Konda Mutta of Merangl In the first schedule, Part III, No I, for Division read Districts
"	XV	Laws Local Extent Act, 1874	In the second schedule, Part (a), in the entry relating to Madras Regulation II of 1806 for (parts of ss 1 and 7) read " " "

¹ The entry relating to Act 2 of 1874 was repealed by the Administrator General's Act, 1913 (3 of 1913)

² The entry relating to Act 9 of 1874 was repealed by the Repealing and Amending Act, 1920 (31 of 1920).

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year	No	Subject or title	Amendment.
1876	X	Bombay Revenue Jurisdiction Act, 1876	In section I, clause (b), for Act XV of 1871 read Act XXI of 1881
"	"	" "	" " "
"	"	" "	" " "
1876	XVIII	Oudh Laws Act, 1876	In section 39, clause (f), for Oudh Revenue Act read Oudh Land revenue Act, 1876
"	"	" "	" " "
1878	I	Opium Act, 1878	In section 24, for Deputy Collector read Deputy Commissioner
"	"	" "	" " "
1878	VIII	Sea customs Act, 1878	In section 2, for the first schedule read Part I of the schedule In the schedule appended to section 167— in the first column of the entry numbered 3, for No 2 read No 4, and for landing or shipment read shipment and landing, and in the second column of the entry numbered 69, for 141 read 142
"	XVII	Northern India Fernes Act, 1878	In section 17, clause (c), for first read in the first instance, and for the words and figures from and then to the end of the clause read and shall then, at the discretion of the Local Government— (i) be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act, 1883, or (ii) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878, as the case may be, and

¹ The entry relating to Act 13 of 1876 was repealed by the Indian Merchant Shipping Act, 1923 (21 of 1923)

² The entry relating to the Oudh Land revenue Act, 1876 (17 of 1876), was repealed by s 4 of the Repealing and Amending Act, 1903 (1 of 1903)

³ The entry relating to Act 3 of 1877 was repealed by the Registration Act, 1908 (16 of 1908)

⁴ The entry relating to Act 7 of 1878 (Indian Forest Act, 1878) was repealed by s 86 and Sch of the Indian Forest Act, 1927 (16 of 1927)

THE SECOND SCHEDULE—*contd**Part I — Acts of the Governor General in Council—contd*

1	2	3	4
Year	No.	Subject or title	Amendment
1879	XVI	Transport of Salt Act, 1879	In section 3, clause (a) for section twenty eight or section thirty one of the Act of the Governor of Bombay in Council No VII of 1873, or by a law granted under Madras Regulation I of 1860, section eleven clause third, read Chapter V of the Madras Salt Act 1850, or Chapter V of the Bombay Salt Act,
			may be
1881	XVIII	Central Provinces Land revenue Act 1881	In section 33 for the first five grades twenty read section 7 In section 31 for the Central Provinces

¹ The entry relating to the Stamp Act 1879 (1 of 1879) was repealed by the Indian Stamp

THE SECOND SCHEDULE—*contd.**Part II.—Regulations of the Bengal Code.*

1	2	3	4
Year.	No.	Subject.	Amendment.
1793	XI	Inheritance . . .	In section 3, for that section read section 2, and for Regulation XXV, 1793, read the Estates' Partition Act, 1876.
1817	XII	Patwaris . . .	In section 31, for Boards are read Board 43 For section 35 read the following.— 35. (1) Any person aggrieved by a decision or order of a Commissioner from decision or order under section 20 may appeal within six months from the date thereof to the Commissioner of the Division. (2) The Commissioner may reverse or alter any such decision or order in appeal.
"	XX	Police . . .	In the heading prefixed to section 29, for Commercial, Salt and Opium Departments read Opium Department, and for those Departments read that Department. In section 29, clause <i>Twelfth</i> , for Section XXXI, Regulation XIII, 1816, read Act XIII of 1857, section 21
1818	III	State Prisoners . .	In section 3, after situated insert and.
1819	II	Resumption of revenue-free lands.	In section 6, clause <i>First</i> , for the words <i>from in the Persian and Bengal languages to Conquered Provinces</i> read in the vernacular of the district In section 12, after belong insert he. In section 26, clause <i>Second</i> , for a appeal read an appeal
1*	*	* . .	* . .

* The entry relating to Regulation 3 of 1822 was repealed by the Bengal Board of Revenue Act, 1913 (Ben Act 2 of 1913), Ben Code

THE SECOND SCHEDULE—concl'd

Part II.—Regulations of the Bengal Code—concl'd

1	2	3	4
Year	No	Subject	Amendment
1823	VI	In <i>hgo</i> contracts	In section 6, for a investigation read an investigation
1825	XIII	Settlement of resumed <i>likhray</i> land	In section 4, for the Regulations read the Regulation In section 5, for Regulations read Pegula tion

ACT No XVI or 1891¹

[14th May 1891]

An Act to declare certain Courts in British India to be Colonial Courts of Admiralty

WHEREAS it is provided by the Colonial Courts of Admiralty Act, 1890,² that the Legislature of a British possession may by any colonial law declare any Court of unlimited civil jurisdiction in that possession to be a Colonial Court of Admiralty,

And whereas it is expedient, in pursuance of that provision, to declare certain Courts in British India to be Colonial Courts of Admiralty,

It is hereby enacted as follows —

1. (1) This Act may be called the Colonial Courts of Admiralty (India) Act, 1891, and

Title and
commence-
ment

(2) It shall come into effect—

(a) if Her Majesty's pleasure thereon has been signified, by ³notification in the Gazette of India, on or before the first day of July, 1891, then on that day, or

¹ For Statement of Objects and Reasons see Gazette of India 1891, Pt V, p 140, and for Proceedings in Council, see *ibid* 1891, Pt VI, p 116

² Coll Stat, Vol II

³ For notification publishing Her Majesty's Assent to this Act, see Gazette of India, 1891, Pt I, p 371.

- (b) if Her Majesty's pleasure thereon has not been so signified on or before that day, then on the day on which Her Majesty's pleasure shall be signified by such a notification as aforesaid.

Appointment
of Colonial
Courts of
Admiralty.

2. The following Courts of unlimited civil jurisdiction are hereby declared to be Colonial Courts of Admiralty, namely —

- (1) the High Court of Judicature at Fort William in Bengal,
- (2) the High Court of Judicature at Madras,
- (3) the High Court of Judicature at Bombay,
- (4) ¹[the ²[High Court of Judicature at Rangoon]],
- ³[(4a) the Chief Court of Sind, and],
- (5) the Court of the Resident at Aden, “

“ ”

Construction
of Indian
Acts refer-
ring to Ad-
miralty and
Vice Ad-
miralty
Courts

3. The expressions “Court having Admiralty jurisdiction” and “Admiralty Court” and the expression “Admiralty or Vice-Admiralty cause,” and other expressions referring to Admiralty or Vice-Admiralty Courts or causes, shall, wherever any such expression occurs in any enactment of the Governor General in Council, or of a Governor in Council or Lieutenant-Governor in Council, be deemed to include a Colonial Court of Admiralty and a Colonial Court of Admiralty cause, and to refer to a Colonial Court of Admiralty or a Colonial Court of Admiralty cause, respectively

Court fees
in suits in
the Colonial
Courts of
Admiralty
at Rangoon,
Aden and
Karachi

4. Court-fees in suits instituted in the Colonial Court of Admiralty at Rangoon, Aden or Karachi shall, unless the jurisdiction of the Court is to be exercised in any matter relating to the slave-trade, be leviable in accordance with the provisions of Chapter III of the Court-fees Act, 1 of 1870

5. [Repeal] *Rep by the Repealing and Amending Act, 1914 (10 of 1914)*

THE SCHEDULE

ENACTMENTS REPEALED

(*Rep. by Act 10 of 1914*)

¹ These words were substituted by the Lower Burma Courts Act, 1900 (6 of 1900), s. 47, and Schedule I, Ben. Code

² These words were substituted for the words “Chief Court of Lower Burma” by s. 6 of 1926, clause (4a) is to be deemed to

have been omitted by s. 2 and Sch. of Act 34 of 1926 when that Act comes into force

ACT No XVIII of 1891¹

[1st October, 1891]

An Act to amend the Law of Evidence with respect to Bankers' Books

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' Books, It is hereby enacted as follows —

1 (1) This Act may be called the Bankers' Books Evidence Act 1891 Title and extent.

(2) It extends to the whole of British India, "

• • • • •

2 In this Act unless there is something repugnant in the subject or Definitions context—

"(1) company" means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or of the Governor General in Council or by Royal Charter or Letters Patent]

(2) "bank" and "banker" mean—

(a) any company carrying on the business of bankers

(b) any partnership or individual to whose books the provisions of this Act shall have been extended as hereinafter provided,

"(c) any post office savings bank or money order office]

(3) "bankers' books" include ledger, day books, cash books, account books and all other books used in the ordinary business of a bank

(4) "legal proceeding" means any proceeding or inquiry in which evidence is or may be given and includes an arbitration

¹ For Statement of Objects and Reasons, see Gazette of India 1891 Pt V p 24 for Report of the Select Committee see *ibid* p 189 and for Proceedings in Council see *ibid* Pt VI pp 15 25 117 135 and 140

The Act has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation 1913 (3 of 1913) see Bal Code. It was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1893 (13 of 1893) Bur Code

It has been declared in force in the Sonthal Parganas by s 3 of the Sonthal Parganas Settlement Regulation (3 of 1892) as amended by the Sonthal Parganas Justice and Laws Regulation 1899 (3 of 1899) B & O Code Vol I

² The word "and" at the end of subsection (2) and subsection (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

³ This definition was substituted for the original definition by the Bankers' Books Evidence Act 1900 (12 of 1900)

⁴ Cl (c) was added by s 2 of the Bankers' Books Evidence Act 1893 (1 of 1893)

(5) "the Court" means the person or persons before whom a legal proceeding is held or taken

(6) "Judge" means a Judge of a High Court

(7) "trial" means any hearing before the Court at which evidence is taken and

(8) "certified copy" means a copy of any entry in the books of bank together with a certificate written at the foot of such copy that : is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business and that such book is still in the custody of the bank such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title

Power to
extend provisions of Act

3 The Local Government may from time to time by notification in the official Gazette extend the provisions of the Act to the books of any partnership or individual carrying on the business of bankers within the territories under its administration and keeping a set of not less than three ordinary account books namely a cash book a day-book or journal and a ledger and may in like manner rescind any such notification

Mode of
proof of
entries in
bankers
books

4 Subject to the provisions of this Act a certified copy of any entry in a banker's book shall in all legal proceedings be received as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matter transactions and accounts therein recorded in every case where and to the same extent as the original entry itself is now by law admissible but not further or otherwise

Case in which
officer of
bank not
compellable
to produce
books.

5 No officer of a bank shall in any legal proceeding in which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act or to appear as a witness to prove the matters transactions and accounts therein recorded unless by order of the Court or a Judge made for special cause

Inspection of
books by
order of
Court or
Judge.

6 (1) On the application of any party to a legal proceeding the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding or may order the bank to prepare and produce within a time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinafore directed in reference to certified copies

(2) An order under this or the preceding section may be made either with or without summoning the bank and shall be served on the bank

three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the Court or Judge shall otherwise direct

(3) The bank may at any time before the time limited for obedience to any such order as aforesaid either offer to produce their books at the trial or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order

7. (1) The costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequence of any fault or improper delay on the part of the bank

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party to the proceeding

(3) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself

Provided that nothing in this subsection shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs

ACT No II of 1892

[29th January, 1892]

An Act to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872

WHEREAS provision is made in Part VI of the Indian Christian Marriage Act 1872, for the solemnization of marriages between persons of whom both are Native Christians but not of marriages between persons of whom one only is a Native Christian

Short title 'The Marriage Validation Act 1892' See the Indian Short Titles Act, 1897 (14 of 1897)

the
hal
ish

And whereas persons licensed under section 9 of the said Act have in divers parts of British India, through ignorance of the law, permitted marriages to be solemnized in their presence under the said Part between persons of whom one is a Native Christian and the other is not a Native Christian,

And whereas it is expedient that such marriages having been solemnized in good faith should be validated,

It is hereby enacted as follows —

1 [*Commencement*] *Rep by the Repealing and Amending Act, 1914 (10 of 1914)*

Definition

2 In this Act the expression "Native Christian" has the same meaning as in the Indian Christian Marriage Act, 1872

Validation of irregular marriages.

3 All marriages which have already been solemnized under Part VI of the Indian Christian Marriage Act, 1872, between persons of whom one only was a Native Christian, shall be as good and valid in law as if such marriages had been solemnized between persons of whom both were Native Christians

Provided that nothing in this section shall apply to any marriage which had been judicially declared to be null and void or to any case where either of the parties has since the solemnization of such marriage and prior to the commencement of this Act contracted a valid marriage

Validation of records of irregular marriages.

4 Certificates of marriages which are declared by the last foregoing section to be good and valid in law and register books, and certified copies of true and duly authenticated extracts therefrom, deposited in compliance with the law for the time being in force, in so far as the register books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been solemnized between persons of whom both were Native Christians

Application of Act to marriages under Act V of 1865.
Penalty for solemnizing irregular marriages.

5 References in this Act to the Indian Christian Marriage Act, 1872, shall, so far as may be requisite, be construed as applying also to the corresponding portions of the Indian Marriage Act, 1865

6 If any person licensed under section 9 of the said Act to grant certificates of marriage between Native Christians shall at any time after the commencement of this Act solemnize or affect to solemnize any marriage under Part VI of the said Act or grant any such certificate as therein mentioned, knowing that one of the parties to such marriage or affected marriage was at the date of such solemnization not a Christian, he shall be liable to have his license cancelled, and in addition thereto he shall be deemed to have been guilty of an offence prohibited by section 73 of the said Act, and shall be punishable accordingly

ACT No VIII of 1892¹

[22nd October 1892]

An Act to remove doubts as to the levy and collection of tolls upon the Lansdowne Bridge over the Indus at Sukkur in the Presidency of Bombay, and for other purposes

WHEREAS by an Act passed by the Governor of Bombay in Council intitled "an Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay," the Act of the Governor General in Council "for enabling Government to levy tolls on public roads and bridges" was repealed as far as it affected the Presidency of Bombay

And whereas the bridge on the line of the North Western Railway over the Indus at Sukkur in the said Presidency of Bombay commonly known as 'The Lansdowne Bridge' was made and is repaired at the expense of the Government of India

And whereas, in consequence of such repeal as aforesaid doubts have arisen whether or not there is any subsisting authority competent to impose and levy tolls for the use of the said bridge and it is expedient to remove such doubts

It is enacted as follows —

1 (1) This Act may be called the Lansdowne Bridge Act 1892

Title and
extent

(2) It extends to the whole of British India²

3*

2 Notwithstanding the repeal of the lately herebefore mentioned Act the Governor General in Council may cause such rates of toll not exceeding the rates mentioned in the schedule annexed to that Act as he may think fit to be levied in respect of the said Lansdowne Bridge and may place the collection of such tolls under the management of such persons as may appear to him proper and all the provisions of the said last mentioned Act shall apply to such tolls and the levies and recovery thereof in the same manner as if such provisions were herein re-enacted verbatim

Levy of tolls.

3 All tolls heretofore levied or collected upon the said Lansdowne Bridge under the authority of the Governor General in Council or of the Governor of Bombay in Council shall be deemed to have been duly levied and collected under the authority of the said Act as if the same had not been repealed

Validation
of past levy
of tolls.

¹ For Statement of Objects and Reasons see Gazette of India 1892 Pt V p 67 and for Proceedings in Council see ibid 1892 Pt VI pp 70 and 75

² Rom Code

³ The word 'and' at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

Application
of Act to
public roads
and bridges

4 Where any public road or bridge has or shall have been made and repaired at the expense of the Government of India and no other adequate provision shall have been made for the levy and collection of tolls thereon, the Governor General in Council may, by notification in the Gazette of India, apply this Act to such road or bridge, and thereupon all the provisions of this Act shall apply to such road or bridge as if the same had been herein named in addition to the said Lansdowne Bridge

ACT No X of 1892¹

[20th October, 1892]

An Act to provide for the levy of a rate on private estates under the management of the Government to meet the cost of supervision and management

WHEREAS it is expedient to provide for the levy of a rate on private estates under the management of the Government to cover the cost of all Government establishments in so far as they are employed in the supervision and management of such estates other than establishments specially entertained for any particular estate or group of estates, and to meet all contingent expenditure incurred by the Government in connection with such supervision and management It is hereby enacted as follows —

Title and
extent

1 (1) This Act may be called the Government Management of Private Estates Act, 1892

(2) It extends to the whole of British India inclusive of ^{2*} British Baluchistan ^{3*}

^{2*} * * *

Definitions

2 In this Act unless there is something repugnant in the subject or context,—

(1) “immovable property” includes land buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit

¹ For Statement of Objects and Reasons see Gazette of India 1892 Pt V, 14 for Report of the Select Committee see *ibid* 1892 Pt V p 69 and for Proceedings in Council see *ibid* 1892 Pt VI 1 73

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1893 (13 of 1893) see the First Schedule and s 4 Bur Code

The Act has been declared in force in the Southern Provinces by the Southern Provinces (Amendment) Act 1899 (3 of 1899) s 3, B & O Code were repealed by the Burma Laws Act, 1893

² The word “and” at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth but not standing timber, growing crops or grass,

(2) "gross income" includes all receipts of every kind in produce or cash, except money borrowed recoveries of principal and the proceeds of sale of immovable property or of moveable property properly classed as capital, and

(3) "private estates under Government management" include—

- (a) estates under the Court of Wards
- (b) encumbered estates under Government management,
- (c) estates attached for default of payment of Government revenue,
- (d) minors estates placed under the guardianship of a revenue officer of the Government by a Civil Court
- (e) estates managed by a Collector in pursuance of any order made under the Code of Civil Procedure and
- (f) all other estates made over to or taken under the management of a revenue-officer of the Government as such under any law for the time being in force or in virtue of any agreement

3 It shall be lawful for the Local Government—

Power to levy rate.

(1) to levy on all private estates under Government management a rate not exceeding five per cent on the gross income, calculated as nearly as may be possible, to cover—

(a) the cost of all Government establishments in so far as they may be employed in the supervision or management of such estates other than establishments specially entertained for the supervision or management of any particular estate or group of estates, and

(b) all contingent expenditure incurred in consequence of such supervision or management,

(2) from time to time to vary such rate and

(3) to reduce or remit such rate in any special case or cases as may be equitable

Provided that, in deciding the amount of the rate to be levied under this Act on any particular estate or group of estates, the Local Government shall consider the expenditure incurred on special establishments for such estate or estates

¹ See now Act 5 of 1903

² For instance of notification issued under the powers conferred by this section fixing a rate to be levied on any estate, see O P R and O

Power to
levy special
charges

4 In cases where an officer of the Government is employed to give legal advice or to audit accounts on behalf of any estate, the Local Government, if it considers the services rendered to be of a special nature, may, in its discretion, direct a special charge to be made against that estate on account of such services, irrespective of the rate leviable under the last foregoing section

Saving as to
special ex-
penditure

5 Nothing in this Act shall apply to the cost of establishments specially entertained or to expenditure of any description specially incurred in respect of any particular estate or estates

Validation
of levy of
past rates

6 All rates for general supervision or management levied by any Local Government before the commencement of this Act shall be deemed to have been levied under this Act

Powers to
make rules
[]

7 The Local Government may make any rules¹ and issue any orders which may be necessary for carrying this Act into effect and which are consistent therewith

Exemption
from juris-
diction of
Court

8 Where any Government establishment is employed in such supervision as aforesaid the Local Government shall be the sole judge of the cost attributable to such employment and its decision thereon shall not be questioned in any Court of Law or otherwise

9 [Repeal] *Rep by the Repealing and Amending Act, 1914 (10 of 1914)*

ACT No 1 of 1893

[20th January, 1893]

An Act to extend the provisions of the Bankers' Books Evidence Act 1891 to the Books of Post Office Savings Banks and Money Order Offices

WHEREAS it is expedient to extend the provisions of the Bankers' Books Evidence Act 1891, to the books of the savings banks and money order offices of the Post Office It is hereby enacted as follows —

Short title

1 (1) This Act may be called the Bankers' Books Evidence Act, 1893 ²

* * * * *

¹ For instances of rules made under the powers conferred by this section see different local Rules and Orders

² For Statement of Objects and Reasons see Gazette of India 1893 Pt V, 1 15 and for "1 pp 12 and 27

The Act has been amended by the Sonthal Parganas Settlement Act, 1899 (B & O Code Vol I 1) and sub-section (2) were (10 of 1914)

³ The word repealed by the

2 After clause (b) of sub-section (2) of section 2 of the said Bankers Books Evidence Act, 1891 the following clause shall be added namely —

Alition to definition of bank an banker 'h section 2, sub-section (2) of Act XVIII of 1891

[vide u l r i p 201]

Act No IV of 1893

[9th March, 1893]

An Act to amend the Law relating to Partition

WHEREAS it is expedient to amend the law relating to partition It is hereby enacted as follows —

1 (1) This Act may be called the Partition Act 1893

Title, extent and saving

(2) It extends to the whole of British India

• • • • •

(4) But nothing herein contained shall be deemed to affect any local law providing for the partition of immovable property paying revenue to Government

2 Whenever in any suit for partition in which if instituted prior to the commencement of this Act, a decree of partition might have been made it appears to the Court that by reason of the nature of the property to which the suit relates, or of the number of the shareholders therein or of any other special circumstance a division of the property cannot reasonably or conveniently be made and that a sale of the property and distribution of the proceeds would be more beneficial for all the shareholders, the Court may, if it thinks fit on the request of any of such shareholders interested individually or collectively to the extent of one moiety or upwards direct a sale of the property and a distribution of the proceeds

Power to Court to order sale instead of division in partition suits

3 (1) If, in any case in which the Court is requested under the last foregoing section to direct a sale any other shareholder applies for leave to buy at a valuation the share or shares of the party or parties asking for a sale, the Court shall order a valuation of the share or shares in

Procedure when sharer undertakes to buy

1 For Statement of Objects and Reasons see Gazette of India 1892 Pt V, p 46 for Report of the Select Committee see ibid 1893 Pt V p 101 and for Proceedings of Council see ibid 1893 Pt VI pp 38 and 49
The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1898 (13 of 1898) Bur Code
2 The word "and" at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

such manner as it may think fit and offer to sell the same to such share holder at the price so ascertained, and may give all necessary and proper directions in that behalf

(2) If two or more shareholders severally apply for leave to buy as provided in sub section (1), the Court shall order a sale of the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court

(3) If no such shareholder is willing to buy such share or shares at the price so ascertained, the applicant or applicants shall be liable to pay all costs of or incident to the application or applications

4 (1) Where a share of a dwelling house belonging to an undivided family has been transferred to a person who is not a member of such family and such transferee sues for partition, the Court shall if any member of the family being a shareholder shall undertake to buy the share of such transferee make a valuation of such share in such manner as it thinks fit and direct the sale of such share to such shareholder, and may give all necessary and proper directions in that behalf

(2) If in any case described in sub section (1) two or more members of the family being such shareholders severally undertake to buy such share the Court shall follow the procedure prescribed by sub section (2) of the last foregoing section

5 In any suit for partition a request for sale may be made or an undertaking or application for leave, to buy may be given or made on behalf of any party under disability by any person authorized to act on behalf of such party in such suit, but the Court shall not be bound to comply with any such request undertaking or application unless it is of opinion that the sale or purchase will be for the benefit of the party under such disability

6 (1) Every sale under section 2 shall be subject to a reserved bidding and the amount of such bidding shall be fixed by the Court in such manner as it may think fit and may be varied from time to time

(2) On any such sale any of the shareholders shall be at liberty to bid at the sale on such terms as to non payment of deposit or as to setting off or accounting for the purchase money or any part thereof instead of paying the same as to the Court may seem reasonable

(3) If two or more persons, of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder

7 Save as hereinbefore provided, when any property is directed to be sold under this Act the following procedure shall, as far as practicable, be adopted, namely —

(a) If the property be sold under a decree or order of the High Court of Calcutta, Madras or Bombay in the exercise of its

Partition
suit by trans-
feree of
share in
dwelling
house

Representa-
tion of
parties under
disability

Reserved
bidding and
bidding by
shareholders.

Procedure to
be followed
in case of
sales.

(b) if the property be sold under a decree or order of any other Court, such procedure as the High Court may from time to time by rules prescribe in this behalf, and until such rules are made, the procedure prescribed in the Code of Civil Procedure in respect of sales in execution of decrees

8 Any order for sale made by the Court under section 2, 3 or 4 shall be deemed to be a decree within the meaning of section 2 of the Code of Civil Procedure.

9 In any suit for partition the Court may, if it shall think fit, make a decree for a partition of part of the property to which the suit relates and a sale of the remainder under this Act

10. This Act shall apply to suits instituted before the commencement thereof, in which no scheme for the partition of the property has been finally approved by the Court.

ACT No. XI of 1893 *

[21st September, 1893]

An Act to make provision for certain matters connected with
the Tributary Mahals of Orissa

WHEREAS it is expedient * * * to indemnify certain persons and validate acts done by them in, or in relation to, the said Mahals, and to admit of certain sentences passed in those Mahals being carried into effect in British India. It is hereby enacted as follows —

1. (1) This Act may be called the Tributary Mahals of Orissa Act, Title and
1893 extent

' There is no longer a Court of the Recorder at Rangoon, since the establishment of a Chief Court and subsequently a High Court there, see the Burma Courts Act, 1922 (11 of 1922) Bur Code

² See now Act 5 of 1908.

* For Statement of Objects and Reasons, see *Constitution of India*, 1893 Pt. V, p. 96, and for *...* Pt. VI, pp. 124, 126, and 203.

⁴ The words of Origen, an (1903)

(2) It extends to the whole of British India, ¹

2 [Repeal] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*

Indemnity
in respect of
acts done
before the
commence-
ment of the
Act

3 No suit prosecution or other proceeding shall be begun or continued in respect of any act done before the commencement of this Act by any officer of the Government in respect of any of the Tributary Mahals of Orissa or any inhabitant thereof, such act purporting to have been done in the exercise of executive or judicial authority, and having, before or after the commencement of this Act, been ratified by the Government, and every such act is hereby confirmed and made valid, and every such officer indemnified and discharged from liability in respect thereof

Execution
in British
India of
certain
sentences
passed
in Tributary
Mahals

4 (1) The Lieutenant Governor of Bengal may authorise the reception, detention or imprisonment in any place under his Government, for the period specified in the sentence, of—

(a) any person sentenced to imprisonment or transportation for any term by any Court or tribunal acting under the authority of the British Government in or in respect of, any Tributary Mahal in Orissa,

(b) any Native Indian subject of Her Majesty residing in any such Mahal or any Native subject of a Chief of any such Mahal when, in either case, such Native subject as aforesaid has been sentenced by such a Chief or by a subordinate Court of such a Chief to imprisonment for a term exceeding six months

(2) The place or places within the territories subject to the Lieutenant Governor of Bengal in which persons may be received, detained or imprisoned under sub-section (1) shall be such as the said Lieutenant Governor may by general or special order, direct

(3) A sentence shall be of the same force and effect in the place in which it may be carried into effect under this section as if it had been passed by a competent Court in that place

THE SCHEDULE

ENACTMENTS REPEALED

Rep by the Repealing and Amending Act 1903 (1 of 1903)

¹ The word "and" at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and Amending Act 1903 (1 of 1903)

THE LAND ACQUISITION ACT 1894.

CONTENTS

PART I

PRELIMINARY

SECTIONS

- 1 Short title extent and commencement
- 2 Repeal
- 3 Definitions

PART II

ACQUISITION

Preliminary Investigation

- 4 Publication of preliminary notification and powers of officers thereupon
- 5 Payment for damage

Objections

- 5A Hearing of objections

Declaration of intended Acquisition

- 6 Declaration that land is required for a public purpose
- 7 After declaration Collector to take order for acquisition
- 8 Land to be marked out measured and planned
- 9 Notice to persons interested
- 10 Power to require and enforce the making of statements as to names and interests

SECTIONS

- 48 Completion of acquisition not compulsory but compensation to be awarded when not completed,
- 49 Acquisition of part of house or building
- 50 Acquisition of land at cost of a local authority or Company
- 51 Exemption from stamp duty and fees
- 52 Notice in case of suits for anything done in pursuance of Act
- 53 Code of Civil Procedure to apply to proceedings before Court
- 54 Appeals in proceedings before Court
- 55 Power to make rules

ACT No I of 1894

[2nd February 1894]

An Act to amend the law for the acquisition of land for public purposes and for Companies

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the

For Statement of Objects and Reasons see Gazette of India 1892 Pt V p 32 for Report of the Select Committee see *ibid* 1894 Pt V p 23 and for Proceedings in Council see *ibid* 1892 Pt VI p 25 and *ibid* 1894 pp 19 24 to 49

The Act has been declared in force in—

- (1) Upper Burma (except the Shan States) by the Burma Laws Act 1898 (13 of 1898) s 4 Bur Code
- (2) Sonthal Parganas by the Sonthal Parganas Settlement Regulation 1872 (3 of 1872) s 3 B & O Code Vol I
- (3) Angul District by the Angul Laws Regulation 1913 (3 of 1913) see B & O Code

The Act has also been declared by notification under the Scheduled Districts Act 1874 (14 of 1874) to be in force in Ranchi District— (now called the Ranchi District— and in Pargana Dhalbhum and t of India 1894 Pt I p 400 and 1894 Pt I p 639

It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation, 1913 (3 of 1913) Bal Code

For modifications in this Act to make provision for the improvement and expansion of towns in the Punjab see s 59 and Sch of the Punjab Town Improvement Act 1922 (Punjab Act 4 of 1922)

For modifications in this Act to make provision for acquiring land in the C P municipal area see s 239 and Sch of the C P Municipal Act 1922 (C P Act 2 of 1922)

For extent to which this Act shall apply to acquisition of land in the Bombay City see s 63 of the City of Bombay Improvement Trust Transfer Act 1925

For modifications with which this Act applies in Calcutta see s 71 and Schedule of the Calcutta Improvement Act 1911 (Ben Act 5 of 1911)

For modifications in this Act to make provision for the improvement and expansion of towns in the United Provinces see s 58 and Schedule to the United Provinces Act 1919

For the improvement and I to the Rangoon Develop

(Part I—Preliminary)

amount of compensation to be made on account of such acquisition. It is hereby enacted as follows—

PART I

PRELIMINARY

1 (1) This Act may be called the Land Acquisition Act 1894

(2) It extends to the whole of British India and

(3) It shall come into force on the first day of March 1894

2 (1) * * *

(2) ** all proceedings commenced officers appointed or authorized agreements published and rules made under the ²[Land Acquisition Act, 1870] shall as far as may be, be deemed to have been respectively commenced appointed or authorized, published and made under this Act

(3) Any enactment or document referring to the ³[Land Acquisition Act, 1870] or to any enactment thereby repealed shall so far as may be, be construed to refer to this Act or to the corresponding portion thereof

3 In this Act unless there is something repugnant in the subject or context—

(a) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth

(b) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act, and a person shall be deemed to be interested in land if he is interested in an easement affecting the land

(c) the expression "Collector" means the Collector of a district and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act

(d) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has ⁴appointed (as it is hereby empowered to do) a special

Short title,
extent and
commence-
ment.

Repeal

Definitions.

¹ Sub section (1) was repealed by the Repealing and Amending Act 1914 (10 of 1914)

² The word 'But' was repealed by *ditto*

³ These words were substituted for the words "said Land Acquisition Act" by *ditto*

⁴ For officers specially appointed under clause (c) see different local Rules and Orders

⁵ For instances of such appointments see *ibid*

For notification appointing the District Judge of Mirzapur for the family Domains of the Maharaja of Benares in the Mirzapur and Benares district see U P Gazette 1907 Pt I p 25.

judicial officer within any specified local limits to perform the functions of the Court under this Act

- (e) the expression "Company" means a Company registered under the Indian Companies Act, 1882, or under the ^{VI of 18} (English) Companies Acts 1862 to 1890, or incorporated by an Act of Parliament or of the Governor General in Council or by Royal Charter or Letters Patent ¹ [and includes a society registered under the Societies Registration Act, 1860, and a registered society within the meaning of the Co-operative Societies Act, 1912]
- (f) the expression "public purpose" includes the provision of village sites in district in which the Local Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision and
- (g) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case and that to the same extent as the persons beneficially interested could have acted if free from disability *

a married woman in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age, and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted

Provided that—

- (i) no person shall be deemed "entitled to act" whose interest in the subject matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act

¹ These words were added by s. 2 of the Land Acquisition (Amendment) Act, 1919 (17 of 1919)

^{*} For instances of such notifications see Bur R M Vol I Bom R and O, Vol I and Coorg P and O

(Part I—Preliminary Part II—Acquisition)

- (ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof,
- (iii) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act, and
- (iv) no person "entitled to act" shall be competent to receive the compensation money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase money on a voluntary sale

PART II

ACQUISITION

Preliminary Investigation

² 4 (1) Whenever it appears to the Local Government that land in any locality ³[is needed or] is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality

Publication of preliminary notification and powers of officers thereupon

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised⁴ by such Government in this behalf, and for his servants and workmen—

to enter upon and survey and take levels of any land in such locality to dig or bore into the subsoil,

to do all other acts necessary to ascertain whether the land is adapted for such purpose,

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon,

¹ See now Act 5 of 1908

² As to amendments with which this section should be read when land is required for the purposes of a Company see s. 33 (2) *infra*

A protected monument may be acquired under this Act as if its preservation were a 'public purpose' within the meaning of the Act, see s. 10 of the Ancient Monuments Preservation Act 1901 (7 of 1901)

³ These words were inserted by s. 2 of the Land Acquisition (Amendment) Act, 1923 (33 of 1923)

⁴ For officers specially authorized in Burma see Bur. R. M.

to mark such levels, boundaries and line by placing marks and cutting trenches, and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked to cut down and clear away any part of any standing crop, fence or jungle.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for
damages

5 The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the district, and such decision shall be final.

¹[Objections]

Hearing of
objections

5A (1) Any person interested in any land which has been notified under section 4 sub-section (1) as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification object to the acquisition of the land or of any land in the locality as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Local Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Local Government on the objections shall be final.

(3) For the purposes of this section a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

Declaration of intended Acquisition

Declaration
that land is
required for
a public pur-
pose

6 (1) Subject to the provisions of Part VII of this Act, ²[when the Local Government is satisfied, after considering the report, if any, made under section 5A, sub-section (2),] that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders.

¹ Inserted by s. 3 of the Land Acquisition (Amendment) Act, 1923 (33 of 1923).

² These words were substituted for the words "whenever it appears to the Local Government" by s. 4 *ibid*.

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be, and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

7. Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the Local Government, or some officer authorised by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

After declaration Collector to take order for acquisition.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and if no plan has been made thereof, a plan to be made of the same.

Land to be marked out, measured and planned.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Not as to persons interested.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence address or place of business and registered under Part III of the Indian Post Office Act 1866.

¹ See now the Indian Post Office Act, 1893 (6 of 1893).

(Part II — Acquisition)

Power to require and enforce the making of statements as to names and interests.

10 (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co proprietor, sub proprietor, mortgagee tenant or otherwise, and of the nature of such interest and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Inquiry into Measurements, Value and Claims and Award by the Collector

Enquiry and award by Collector

11 On the day so fixed or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land [at the date of the publication of the notification under section 4 sub-section (1)] and into the respective interests of the persons claiming the compensation and shall make an award under his hand of—

- (i) the true area of the land,
- (ii) the compensation which in his opinion should be allowed for the land and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of Collector when to be final.

12 (1) Such award shall be filed in the Collector's office and shall except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Adjournment of enquiry

13 The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

¹ These words were inserted by s. 5 of the Land Acquisition (Amendment) Act, 1923 (83 of 1923).

(Part II — Acquisition)

14 For the purpose of enquiry under this Act the Collector shall have power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel the production of documents by the same manner as (so far as may be) in the same manner as is provided in the Code of Civil Procedure under the Code of Civil Procedure.

Power to summon and enforce attendance of witnesses and production of documents.

15 In determining the amount of compensation the Collector shall be guided by the provisions contained in section 23 and 24.

Matters to be considered and neglected.

Taking possession

16 When the Collector has made an award under section 11 he may take possession of the land which shall thereupon vest absolutely in the Government free from all encumbrances.

Power to take possession.

17 (1) In case of urgency, whenever the Local Government so directs the Collector though no such award has been made may, on the expiration of fifteen days from the publication of the notice mentioned in section 9 sub-section (1), take possession of any waste or unoccupied land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government free from all encumbrances.

Special powers in cases of urgency.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to require the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river side or ghat station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Local Government, enter upon and take possession of such land which shall thereupon vest absolutely in the Government free from all encumbrances.

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24, and, in case such offer is not accepted the value of such crops and trees and the amount of such

(Part II —Acquisition Part III —Reference to Court and Procedure thereon)

other damage shall be allowed for in awarding compensation for the land under the provisions herein contained

'[(d) In the case of any land to which, in the opinion of the Local Government the provisions of sub-section (1) or sub-section (2) are applicable the Local Government may direct that the provisions of section 5A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 1, sub-section (1)]

PART III

REFERENCE TO COURT AND PROCEDURE THEREON

Reference to
Court.

18 (1) Any person interested who has not accepted the award may, by written application to the Collector require that the matter be referred by the Collector for the determination of the Court whether his objection be to the measurement of the land, the amount of the compensation the persons to whom it is payable or the apportionment of the compensation among the persons interested

(2) The application shall state the grounds in which objection to the award is taken

Provided that every such application shall be made —

(a) if the person making it was present or represented before the Collector at the time when he made his award within six weeks from the date of the Collector's award

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire

Collector's
statement
to the Court.

19 (1) In making the reference, the Collector shall state for the information of the Court in writing under his hand,—

(a) the situation and extent of the land with particulars of any trees buildings or standing crops thereon

(b) the names of the persons whom he has reason to think interested in such land,

(c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11, and

(d) if the objection be to the amount of the compensation the grounds on which the amount of compensation was determined

¹ Sub-section (4) was added by s. 6 of the Land Acquisition (Amendment) Act 1903 (33 of 1923)

(Part III —Reference to Court and Procedure thereon)

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested respectively

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection and directing their appearance before the Court on that day to be served on the following persons, namely

Service of
not ce

(a) the applicant

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded, and

(c) if the objection is in regard to the use of the land or to the amount of the compensation, the Collector

21. The scope of the inquiry in every such proceeding shall be restricted to a determination of the interests of the persons affected by the objection

Restriction
on scope of
proceedings

22. Every such proceeding shall take place in open Court and all persons entitled to practice in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding

Proceedings
to be in open
Court

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act the Court shall take into consideration—

Matters to
be considered
in determin-
ing compen-
sation

first the market value of the land at the date of the publication of the ¹[notification under section 4 sub section (1)]

secondly, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof,

thirdly, the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land by reason of severing such land from his other land

fourthly, the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land by reason of the requisition injuriously affecting his other property moveable or immovable in any other manner, or his earnings,

fifthly, if, in consequence of the requisition of the land by the Collector the person interested is compelled to change his residence or place of business the reasonable expenses (if any) incidental to such change, and

¹ These words were substituted by s 7 of the Land Acquisition (Amendment) Act 1933 (38 of 1933)

(Part III—Reference to Court and Procedure thereon)

with the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land

(2) In addition to the market value of the land as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value in consideration of the compulsory nature of the acquisition

24 But the Court shall not take into consideration—

- first* the degree of urgency which has led to the acquisition,
- secondly* any disinclination of the person interested to part with the land acquired
- thirdly* any damage sustained by him which, if caused by a private person, would not render such person liable to a suit,
- fourthly*, any damage which is likely to be caused to the land acquired after the date of the publication of the declaration under section 6 or in consequence of the use to which it will be put
- fifthly* any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired,
- sixthly* any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put or
- seventhly*, any outlay or improvements on, or disposal of the land acquired commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under section 4 sub-section (7)

25 (1) When the applicant has made a claim in compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim the amount awarded by the Court shall in no case exceed the amount awarded by the Collector

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim the amount awarded to him by the Court shall not be less than and may exceed, the amount awarded by the Collector

¹ These words were substituted by s. 8 of the Land Acquisition (Amendment) Act 1921 (19 of 1923)

Matters to be neglected in determining compensation

Rules as to amount of compensation

(Part III —Reference to Court and Procedure thereon Part IV —
Apportionment of Compensation)

[26 (1)] Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts Form of awards

[26 (2)] Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (3) respectively, of the Code of Civil Procedure, 1908]

27 (1) Every such award shall also state the amount of costs incurred in the proceedings under this part, and by what persons and in what proportions they are to be paid Costs

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs

28 If the sum which, in the opinion of the Court the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court Collector may be directed to pay interest on excess compensation

PART IV

APPORTIONMENT OF COMPENSATION

29 Where there are several persons interested if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment Particulars of apportionment to be specified

30 When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof is payable the Collector may refer such dispute to the decision of the Court Dispute as to apportionment

¹ Section 28 was re-numbered s 26 (1) and sub-section (2) was added to that sect on by s 2 of the Land Acquisition (Amendment) Act 1921 (19 of 1921)

PART V.

PAYMENT

31 (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

Payment of compensation or deposit of same in Court.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted.

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount.

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18.

Provided also that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the Local Government instead of awarding a money compensation in respect of any land make any arrangement with a person having a limited interest in such land either by the grant of other lands in exchange the remission of land revenue on other lands held under the same title or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

32 (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same the Court shall—

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

¹ As to persons who are competent to contract see s. 11 of the Indian Contract Act 1872 (0 of 1872).

(Part I —Payment Part II—Temporary Occupation of Land)

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land and such moneys shall remain so deposited and invested until the same be applied—

- (i) in the purchase of such other lands as aforesaid or
- (ii) in payment to any person or persons becoming absolutely entitled thereto

(2) In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto to be paid by the Collector namely

- (a) the costs of such investments as aforesaid
- (b) the costs of the orders for the payment of the interest or other proceeds, of the securities upon which such moneys are for the time being invested and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants

33 When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be

Investment of money deposited in other cases

34 When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited

Payment of interest.

PART VI

TEMPORARY OCCUPATION OF LAND

35 (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and

Temporary occupation of waste or

(Part VI—Temporary Occupation of Land Part VII—Acquisition of Land for Companies)

arable land
Procedure
when differ-
ence as to
compensa-
tion exists.

use of any waste or unarable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.

3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

Powers to
enter and
take possession,
and
compensation on
restoration

36 (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land and use or permit the use hereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein.

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as
to condition
of land

37 In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

PART VII

ACQUISITION OF LAND FOR COMPANIES

Company
may be
authorized to
enter and
survey

38 (1) * * * * The Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4

¹ The words "Subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf" were omitted by s. 2 and Sch. I of the Derolition Act, 1920 (39 of 1920)

(Part III — Acquisition of Land for Companies)

(2) In every such case section 4 shall be construed as if for the words 'for such purpose' the words 'for the purposes of the Company' were substituted, and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted

39 The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government nor unless the Company shall have executed the agreement hereinafter mentioned

Previous consent of Local Government and execution of agreement necessary Previous enquiry

40 (1) Such consent shall not be given unless the Local Government be satisfied, [either on the report of the Collector under section 5A sub section (2), or] by an enquiry held as hereinafter provided,—

(a) that such acquisition is needed for the construction of some work, and

(b) that such work is likely to prove useful to the public

(2) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the "Code of Civil Procedure in the case of a Civil Court

41. * * * * * If the Local Government is satisfied [after considering the report, if any, of the Collector under section 5A, sub section (2), or on the report of the officer making an inquiry under section 40] that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public it shall * * * require the Company to enter into an agreement with the Secretary of State for India in Council providing to the satisfaction of the Local Government for the following matters namely —

Agreement with Secretary of State in Council

(1) the payment to Government of the cost of the acquisition

(2) the transfer on such payment, of the land to the Company

(3) the terms on which the land shall be held by the Company

(4) the time within which, and the condition on which the work shall be executed and maintained, and

(5) the terms on which the public shall be entitled to use the work

42 Every such agreement shall, as soon as may be after its execution, be published in the Gazette of India and also in the local official

Publication of agreement

* These words were added by s 9 of the Land Acquisition (Amendment) Act 1923 (38 of 1923)

* See now Act 5 of 1903

* Certain words were omitted by s 10 of the Land Acquisition (Amendment) Act 1923 (38 of 1923)

* These words were inserted by s 10 *ibid*

* Certain words were omitted by s 9 and Sch I of the Devolution Act 1920 (38 of 1920)

(Part VII—Acquisition of Land for Companies. Part VIII—
Miscellaneous)

Gazette and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act

Sections 39
to 42 not to
apply where
Government
bound by
agreement
to provide
land for
Companies

43 The provisions of sections 39 to 42, both inclusive, shall not apply and the corresponding sections of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the requisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council the Government is or was, bound to provide land

How agree-
ment between
Railway &
Company and
Secretary of
State may be
proved

44 In the case of the acquisition of land for the purposes of a Railway Company the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government

PART VIII

MISCELLANEOUS

Service of
notices

45 (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed in the case of a notice under section 4 by the officer therein mentioned, and, in the case of any other notice by or by order of the Collector or the Judge

(2) Whenever it may be practicable the service of the notice shall be made on the person therein named

(3) When such person cannot be found the service may be made on any adult male member of his family residing with him and, if no such adult male member can be found the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court house, and also in some conspicuous part of the land to be required

Provided that if the Collector or Judge shall so direct, a notice may be sent by post in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866 and service of it may be proved by the production of the addressee's receipt

Penalty of
obstructing
acquisition
of land

46 Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up destroys damages or displaces any trench or wall made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any

* Repealed by this Act

* See now the Indian Post Office Act 1898 (6 of 1898)

term not exceeding one month, or to fine not exceeding fifty rupees or to both

47 If the Collector is opposed or impeded in taking possession under this Act of any land, he shall if a Magistrate, enforce the surrender of the land to himself, and if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector

Magistrate to enforce surrender

48 (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder and shall pay such amount to the person interested together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section

49 (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building if the owner desire that the whole of such house, manufactory or building shall be so required

Acquisition of part of house or building

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house manufactory or building shall be so required

Provided also that if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house manufactory or building within the meaning of this section the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house manufactory or building

(2) If in the case of any claim under section 23 sub section (1) thirdly, by a person interested, on account of the severing of the land to be acquired from his other land the Local Government is of opinion that the claim is unreasonable or excessive, it may at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be required forms a part

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary, but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11

Acquisition of land at cost of a local authority or Company

50 (1) Where the provisions of this Act are put in force for the purpose of requiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation

Provided that no such local authority or Company shall be entitled to demand a reference under section 18

Exemption from stamp duty and fees

51 No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same

Notice in case of suits for anything done in pursuance of Act.

52 No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended proceeding and of the cause thereof, nor after tender of sufficient amends

Code of Civil Procedure to apply to proceedings before Court Appeal in proceedings before Court

53 Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act

[54 Subject to the provisions of the Code of Civil Procedure, 1908, and applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council subject to the provisions contained in section 110 of the Code of Civil Procedure 1908 and in Order XLV thereof]

Power to make rules

55 (1) The Local Government shall * * * have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made

¹ See now Act 5 of 1908

² This section was substituted by s 3 of the Land Acquisition (Amendment) Act 1921 (10 of 1921)

³ The words "subject to the control of the Governor General in Council" [which were inserted into the Act by the Decentralization Act 1914 (4 of 1914)] were omitted by s 2 and Sch. I of the Devolution Act 1920 (33 of 1920)

⁴ For rules made under this section see different local Rules and Orders

(Part VIII—Miscellaneous)

1894: Act III.] *Amendment of Indian Penal Code.*

¹[Provided that where the provisions of this Act are put in force for the acquisition of land—

(a) for the purposes of any railway, or

(b) for such other purposes, connected with the administration of a central subject as defined in section 45A of the Government of India Act, as the Governor General in Council may, by notification in the Gazette of India, declare in this behalf,

the power to make, alter and add to rules conferred on the Local Government by this sub-section shall be exercised subject to the control of the Governor General in Council]

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered or added to after previous publication

(3) All such rules, alterations and additions shall * * * be published in the official Gazette, and shall thereupon have the force of law.

ACT No III of 1894²

[23rd February, 1894]

An Act to amend * * * the Indian Penal Code.

WHEREAS it is expedient to amend * * * the Indian Penal Code; It is hereby enacted as follows —

1 to 4. [Amendment of the Code of Criminal Procedure, 1892] *Rep by the Code of Criminal Procedure, 1898 (Act V of 1898)*

¹ The proviso was added by s 2 and Sch I of the Devolution Act 1920 (38 of 1920)

² The words "when sanctioned by the Governor General in Council" were omitted by Schedule, Part I, of the Decentralization Act 1914 (4 of 1914)

³ Short title "The Indian Criminal Law Amendment Act, 1891" See the Indian Short Titles Act 1897 (14 of 1897)

the principal Act of 1892 was
to the Burma Laws Act 1898 (13
force in British Baluchistan (B
Code)

The Act has been declared in force in the Sonthāl Parganas by s 3 of the Sonthāl Parganas Settlement Regulation (3 of 1872) as amended by the Sonthāl Parganas Justice and Laws Regulation 1899 (3 of 1899) B & O Code, Vol I

⁴ The words "the Code of Criminal Procedure 1892 and" in the title and preamble were repealed by the Repealing and Amending Act 1914 (10 of 1914)

* * *

Addition to
section 177
of Indian
Penal Code

5 To section 177 of the Indian Penal Code the following shall be added namely —

“*Explanation*—In section 176 and in this section the word ‘offence’ includes any act committed at any place out of British India, which, if committed in British India would be punishable under any of the following sections namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 430, 436, 449, 450, 457, 458, 459 and 460 and the word offender includes any person who is alleged to have been guilty of any such act”

Addition to
section 201 of
same Code

6 In section 201 of the said Code the following shall be added namely —

“*Explanation*—In sections 201 and 202 and in this section the word ‘offence’ includes any act committed at any place out of British India which if committed in British India would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 430, 436, 449, 450, 457, 458, 459 and 460”

Addition to
section 212
of same Code.

7. In section 212 of the Indian Penal Code immediately before the *Exception* the following shall be inserted, namely —

“‘Offence’ in this section includes any act committed at any place out of British India which if committed in British India, would be punishable under any of the following sections namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 430, 436, 449, 450, 457, 458, 459 and 460, in every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India”

Addition of
new sections
after section
216 of same
Code
Penalty for
harbouring
robbers or
dacoits

8 After section 216 of the said Code the following shall be inserted, namely —

“216A Whoever knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment shall be punished with rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine

“*Explanation*—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed within or without British India

“*Exception*—This provision does not extend to the case in which the harbour is by the husband or wife of the offender

“216B In sections 212, 216 and 216A the word ‘harbour’ includes the supplying a person with shelter food drink money, clothes, arms, ammunition or means of conveyance, or the assisting a person in any way to evade apprehension”

Definition of
‘harbour’ in
sections 212
216 and
216A

“The heading Indian Penal Code was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

THE INDIAN TARIFF ACT, 1894.

CONTENTS

SECTIONS

- 1 Title and extent
 - 2 Repeal
 - 3 Duties specified in schedules to be levied
 - 4 [*Repealed*]
 - 5 Duties on imports and exports by land
 - 6 Amendment of Act XVI, 1863, section 1
 - 7 Duty on salt, opium and spirit when protected by a certificate
 - 8 Application of certain provisions as to duties and goods
 - 8A Additional import duty on bounty-fed articles
 - 8B Special import-duty on sugar in certain cases
 - 8C [*Repealed.*]
 - 9 Power to cancel notifications
 - 10 When contracts have been entered into, amount of increased or decreased duty to be added or deducted
 - 11 Amendment of Act VIII of 1878, section 23
-

SCHEDULE I—ACTS REPEALED

SCHEDULE II—IMPORT TARIFF

SCHEDULE III—EXPORT TARIFF

ACT No VIII of 1894 ¹

[10th March, 1894]

AN Act to amend the law relating to Customs duties, and for other purposes

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea and to provide for the

¹ For Statement of Objects and Reasons see Gazette of India 1894, Pt V p. 58, for Report of the Select Committee see Gazette of India Extraordinary dated 10th March 1891, p. 13 for Proceedings in Council see Gazette of India Pt VI pp. 71 and 96

The Act has been declared in force in the Sonthal Parganas by s. 3 of Reg. 3 of 1872 as amended by Reg. 3 of 1899 s. 3 B & O Code Vol I

levy of duties on goods ¹[imported into or exported from British India by land], It is hereby enacted as follows —

1 (1) This Act may be called the Indian Tariff Act, 1894

(2) It extends to the whole of British India except Aden and Perim " " " " " "

2 (1) The Acts mentioned in the first Schedule are repealed to the extent specified therein

(2) But all notifications published, and rules and orders made, under any of those Acts and in force immediately before the commencement of this Act, shall, so far as they are consistent herewith, be deemed to have been respectively published and made under this Act and

(3) All references made to the Indian Tariff Act, 1875,² and the Indian Tariff Act, 1882,³ in Acts or Regulations passed before the commencement of this Act, shall be deemed to be made to this Act

(4) Nothing in this Act shall authorize the levy of duties of customs on any article carried from one customs port in British India to another such port, except salt opium and spirit

⁴3 (1) There shall be levied and collected, in every port to which this Act applies, the duties specified in the second and third Schedules

(2) The Governor General in Council may, by notification in the Gazette of India, fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specifically or under general headings, in the said Schedules as chargeable with duty *ad valorem*, and may alter any tariff values for the time being in force

(3) Different tariff values may be fixed for different classes or descriptions of the same article

⁵[(4) If the Governor General in Council is satisfied, after enquiry as he thinks necessary that articles of British manufacture chargeable with duty under Part VII of the second Schedule are being imported into British India at such a price as is likely to render ineffective the protection intended to be afforded by such duty to similar articles manufactured in India, he may, by notification in the Gazette of India, increase such duty to such extent as he thinks necessary

¹ These words were substituted for the words 'crossing the frontier of certain foreign European Chiefdoms by the territories of certain Native Chiefs' by Act 1924 (9 of 1924)

² The words repealed by Act 1914 (10 of 1914)

³ Act 16 of 1875 was repealed by the Indian Tariff Act, 1882 (11 of 1882)

⁴ Act 11 of 1882 is repealed by s. 2 (1) and Sch. I of this Act

⁵ This section was substituted by s. 3 of the Indian Tariff (Amendment) Act, 1916 (1 of 1916)

⁶ Subsections (4) (5) and (6) were substituted by s. 2 of the Steel Industry (Protection) Act, 1927 (3 of 1927) for the original subsection (4) (which was inserted by Act 14 of 1924)

Title and
extent

Repeal

Dut es
specified in
Schedules to
be levied

while with only the amount, if any, by which the duty leviable thereon under the '[second Schedule] exceeds the duty shown by such certificate to have been already paid in respect thereof

(2) The amount, if any paid to the Government as the price of such salt or opium is not duty within the meaning of this section

(3) Nothing in this section applies to spirit which is exported under bond for excise duty from one customs port to another customs port under the provisions of Chapter XIV of the Sea Customs Act, 1878

Application
of certain
provisions as
to duties and
goods

'8 So far as regards the Presidency of Port Saint George, the repealed provisions of Act No VI of 1844,² and, so far as regards the Presidency of Bombay the unrepealed provisions of Act No XXIX of 1857,⁴ relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of section 5 • • •

Additional
import-duty
on bounty fed
articles

'[8A. (1) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon '[the production therein or] the exportation therefrom of any article and the article is chargeable with duty under the provisions of this Act then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may by notification in the Gazette of India, impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed

(2) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the Governor General in Council and the Governor General in Council may, by notification in the Gazette of India, make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub section (1)]

These words were substituted for the words ' third Schedule ' by s 2 and the Schedule of the Amending Act 1916 (13 of 1916)

² This section has been virtually modified by s 10 of the Land Customs Act, 1924 (19 of 1924)

³ 'Mad Code'

⁴ For Act 29 of 1857 see Bom Code

⁵ The words figure and brackets sub-section (1) clause (b) " were omitted by s 4 of the Indian Tariff (Amendment) Act 1924 (9 of 1924)

⁶ S 8A was added by the Indian Tariff (Amendment) Act 1899 (14 of 1899)

⁷ These words were inserted by s 2 of the Indian Tariff (Amendment) Act 1903 (12 of 1903)

[8B. (1) Where the rate of duty or other taxation imposed in any country, dependency or colony upon sugar not produced therein exceeds the rate of duty or other taxation imposed upon sugar produced therein by more than the equivalent of six francs per one hundred kilogrammes in the case of refined sugar or five francs and fifty centimes per one hundred kilogrammes in the case of other sugar, then, upon the importation of any sugar from such country, dependency or colony into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose, in addition to any other duty or taxation imposed under this Act or any other law for the time being in force a special duty not exceeding one moiety of such excess

Special
import-duty
on sugar in
certain cases

(2) The Governor General in Council may, from time to time, by general or special order, declare, for the purposes of sub section (1),—

(a) what articles or substances containing any saccharine matter shall be deemed to be "sugar" and what kinds of sugar shall be deemed to be "refined sugar" or "other sugar", respectively, and

(b) what sums in the currency of British India shall be deemed to be the equivalent of "francs" and "centimes", respectively

(3) The amount of the excess referred to in sub section (1) shall be from time to time ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India make rules for the identification of sugar and for the assessment and collection of any special duty imposed upon the importation thereof under sub section (1)]

8C [Continuation of duties chargeable under section 8A or 8B on 31st August, 1903]—This section was inserted by section 3 of Act 12 of 1903, which was repealed by Act 10 of 1914

9 All notifications published under this Act may be cancelled by the authority publishing the same

Power to
cancel
notification

10 In the event of any duty of customs or excise on any article being imposed, increased decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the con-

When
contracts
have been
entered into
amount of
increased or
decreased
duty to be
added or
deducted.

'S 8B was added by the Indian Tariff (Amendment) Act 1902 (8 of 1902) s 2. It was to remain in force until the 31st August 1903 but was subsequently revived by the Tariff Act 1904 (11 of 1904) s 1 and continued in force from 1st April, 1904

tract, or for the sale of such article duty-paid, where duty was chargeable at that time,—

- (a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, ¹[or any part thereof,] is paid, the seller may add so much to the contract price as will be ²[equivalent to the amount paid in respect of such duty] or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and,
- (b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty, or remitted duty, and he shall not be liable to pay, or be sued, for, or in respect of, such deduction

Amendment
of Act VIII
of 1878 " "
section 23

11. In the second paragraph of section 23 of the Sea Customs Act, VIII 1878, the words " with the previous sanction of the Governor General in Council " shall be inserted after the word " may "

SCHEDULE I —(ACTS REPEALED)

Number and year	Title	Extent of repeal
<i>Acts of the Governor General in Council</i>		
XI of 1862	Indian Tariff Act 1859	So much as has not been repealed
II of 1867	An Act to amend the Sea Customs Act 1878 the Excise Act 1881, and the Indian Tariff Act 1882	Section 8
II of 1868	An Act to provide for the levy of a customs duty on Petrol um	Section 1
VIII of 1869	An Act to amend the S a Customs Act, 1878 and the Indian Tariff Act 1882	Sections 3 4 and 5
XII of 1890	An Act to amend the Indian Tariff Act 1882	The whole
I of 1892	An Act to amend the Indian Tariff Act, 1882	Ditto
IX of 1893	An Act to amend the Indian Tariff Act, 1882, as amended by subsequent Acts	Ditto

¹ These words were inserted by a 2 of the Indian Tariff (Amendment) Act, 1919 (19 of 1919)

² These words were substituted for the words " equivalent to the duty " by s 2, *ibid*

¹SCHEDULE II —IMPORT TARIFF

PART I

Articles which are free of duty

No.	Names of Articles
	I —Food, Drink and Tobacco—
1	Hops
"[A.	GRAIN and PULSE all sorts including broken grains and pulse but excluding flour (<i>see</i> [Nos. 1B and 1C])]
"[B.	SUGAR]
2	SALT
	(For the general duty on salt see No 35)
	II —Fur materials and produce and articles mainly unmanufactured—
	HIDES AND SKINS, FUR
3	HIDES and SKINS, raw or salted.
	METALLIC ORES
4	METALLIC ORES all sorts * [except ochres and other pigment ores]
	PRECIOUS STONES AND PEARLS
5	PRECIOUS STONES unset and imported unset and PEARLS unset
	SEEDS
6	OIL-SEEDS imported into British India by sea from the territories of any Prince or Chief in India
	[TALLOW, STEARIN' AND WAX.
6A	TALLOW]
	TEXTILE MATERIALS
7	COTTON RAW
8	WOOL, raw and WOOL TOPS

1927

⁴ This term was inserted by s. 2 of 1

* These words were added by s. 3 (1) and 1st Schedule of the 1st amendment Act 1933

³ This item was inserted by s. 2 of Act 21 of 1937

SCHEDULE II.—IMPORT TARIFF—*contd.*PART I—*contd.*Articles which are free of duty—*contd.*

No	Names of Articles
	MISCELLANEOUS
	es and the following chemical manures:— of soda, muriate of potash, sulphate of salts, ² [carbo lime, uric], nitrate of lime, and mineral superphosphates,
10	PULP OF WOOD, RICES and other paper making materials
10A	RUBBER STAMPS, rubber seeds and raw rubber }
10B	STICK OF STED LAG }
	III—Articles wholly or mainly manufactured—
	APPAREL
11	UNIFORMS and ACCOUTREMENTS appertaining thereto, imported by a public servant for his personal use
	ARMS, AMMUNITION AND MILITARY STORES
12	— or 8th sub head] of No. 42, under "that item" and are
	of his equipment
	(f) Morris tubes and patent ammunition imported by officers commanding British and Indian regiments or volunteer corps for the instruction of their men

¹ This item was inserted by s. 2 and Sch. of Act 24 of 1927.² These words were inserted by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1925 (14 of 1925).³ This item was substituted by s. 4 and Sch. II of the Indian Finance Act, 1927 (5 of 1927), for the original item inserted by Act 14 of 1925.⁴ This item was added by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1926 (17 of 1926).⁵ These words and figures were substituted for the words and figures "5th, 6th, 8th, 9th or 10th item" by s. 2 and Sch., *ibid*.⁶ These words were substituted for the words and figures "the 1st or 3rd item" by s. 2 and Sch., *ibid*.

SCHEDULE II.—IMPORT TARIFF—*contd.*PART I—*contd.*Articles which are free of duty—*contd.*

No	Names of Articles
CHEMICALS, DRUGS AND MEDICINES	
13	ANTI FLAGRASEPTIN
² [13A]	BLEACHING PASTE AND BLEACHING POWDER.]
² [14]	CINCHONA BARK and the alkaloids extracted therefrom in the form of QUININE.]
¹ [14A]	Magnesium Chloride.]
² [14B]	SELENITE.]
DYES AND COLOURS.	
14C	Dyes derived from coal tar and coal tar derivatives used in any dyeing process.]
HARDWARE, IMPLEMENTS AND INSTRUMENTS.	
15	Tools, namely, axes, adzes, hatchets, saws, planes, and other tools, which cannot ordinarily be used for purposes unconnected with agriculture.
16	Tools, namely, axes, adzes, hatchets, saws, planes, and other tools, which cannot ordinarily be used for purposes unconnected with agriculture.
17	INSTRUMENTS, APPARATUS AND APPLIANCES, imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling.
18	WATER LIFTS, SUGAR MILLS, OIL PRESSES, and parts thereof, when constructed so that they can be worked by manual or animal power.
MACHINERY.	
18A	MACHINERY, namely, such of the following articles as are not otherwise specified — (1) prime movers, boilers, locomotive engines and tenders for the same, portable engines (including power driven road rollers, fire engines and tractors), and other machines in which the prime mover is not separable from the operative parts;

¹ These items were inserted by s. 2 and Sch. of Act 21 of 1927.² Item 14 was substituted by s. 3 (1) and 1st Schedule of the Indian Finance Act, 1923.³ This item was inserted by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1925 (14 of 1925).⁴ No "14A" was re-numbered No "14B" by s. 2 and Sch. of Act 21 of 1927.

id Sch. of the Indian Tariff

SCHEDULE II—IMPORT TARIFF—*contd.*PART I—*contd*Articles which are free of duty—*contd*

No	Names of Articles
	<p>(2) machines and sets of machines to be worked by electric steam water fire</p> <p>for its operation and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose</p> <p>(4) control gear self acting or otherwise and transmission gear designed for use with any machinery above specified including belting of all materials and driving chains but excluding driving ropes not made of cotton,</p> <p>(5) large and drawn electrolytic copper wires and cables and other electrical wires and cables insulated or not and poles troughs conduits and insulators designed as parts of a transmission system, and the fittings thereof</p> <p>Note—The term 'industrial system' used in sub clause (3) means an installation designed to be employed directly in the performance of any process or series of processes necessary for the manufacture, production or extraction of any commodity</p>
18B	<p>The following TEXTILE MACHINERY AND APPARATUS by whatever power operated, namely: heald cords and heald knitting needles, reeds and shuttles, warp and weft preparator machinery and looms, bobbins and pirns, dobies, Jacquard machines, Jacquard harness hutch cards, Jacquard cards, punching plates for Jacquard cards, swivel keys, machinery for knitting machines, silk looms, and sizing machines, piano c</p> <p>eyes and levers</p>
18C	<p>PRINTING AND LITHOGRAPHIC MATERIAL, namely: presses, aluminium lithographic paper</p>
18D	<p>COMPONENT PARTS OF MACHINERY as defined in Nos 18A, 18B and 18C, namely, such parts only as are essential for the working of the machine or apparatus and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose</p> <p>Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the machine to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable.]</p>

SCHEDULE II.—IMPORT TARIFF—*contd.*

PART I—concl'd.

Articles which are free of duty—*concl'd.*

No	Names of Articles
	METALS
19	CURRENT NICKEL, BRONZE, AND COPPER COINS OF THE GOVERNMENT OF INDIA
20	GOLD AND SILVER EULLION AND COIN.
{20A	ZINC, UNWROUGHT, INCLUDING CAKES, INGOTS, TILES (OTHER THAN BOILER TILES), HARD OR soft slabs and plates, dust, dross and ashes, and broken zinc]
	PAPER
21	TRADE CATALOGUES AND ADVERTISING CIRCULARS IMPORTED BY PACKET, BOOK, OR PARCEL
{21A	post Postage Stamps, whether used or unused]
	YARNS AND TEXTILE FABRICS
22	SECOND HAND OR USED GUNNY BAG { or cloth } made of jute.
23	" " " " " " " " " " " "
	MISCELLANEOUS.
24	BOOKS, PRINTED, INCLUDING COVERS FOR PRINTED BOOKS, MAPS, CHARTS, AND PLANTS, PROOFS, music and manuscripts
{24A	Flores, cotton,
24B	Starch and farina]
	IV.—Miscellaneous and unclassified—
25	ANIMALS, LIVING, ALL SORTS
26	SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, AND MEDALS AND ANTIQUE COINS

PART II.

¹Articles which are liable to ²[non-protective] duty at special rates.

No.	Names of Articles	Unit or method of assessment	Rate of duty.
	<i>I.—Food, Drink and Tobacco—</i>		<i>Rs. A.</i>
27	FISH. FISH, SALTED, wet or dry . . .	Indian maund of 82½ lbs avoirdupois weight	Such rate or rates of duty not exceeding one rupee as the Governor General in Council may, by notification in the Gazette of India, from time to time prescribe.

¹ Item 20A was inserted by a 2 (2) and Sch. of the Steel Industry (Protection) Act, 1927 (1 of 1927)

² Item 21A was inserted by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1925 (14 of 1925).

SCHEDULE II—IMPORT TARIFF—*contd.*PART II—*contd.*Articles which are liable to ¹[non-protective] duty at special rates—*contd.*

No	Names of Articles	Unit or method of assessment	Rate of duty
	LIQUORS		Rs A
28	ALE, Beer, Porter, Cider and other fermented liquors	Imperial gallon or 6 quart bottles	Eight annas
29	¹ [DEWATERED SPIRIT] .	<i>Ad valorem</i> . .	7½ per cent
30	PERFUMED SPIRITS	Imperial gallon or 6 quart bottles	36 0 * [or 15 per cent. <i>ad valorem</i> , whichever is higher]
31	LIQUEURS, Cordials, Mixtures and other preparations containing spirit—		
	(a) Entered in such a manner as to indicate that the strength is not to be tested	Ditto .	30 0 * [or 15 per cent <i>ad valorem</i> , whichever is higher]
	(b) If tested .	Imperial gallon or 6 quart bottles of the strength of London proof	21 14 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof * [or 15 per cent <i>ad valorem</i> , whichever is higher]
32	All other sorts of SPIRIT . .	Ditto .	Ditto
33	WINES—		
	Champagne and all other sparkling wines not containing more than 42 per cent of proof spirit	Imperial gallon or 6 quart bottles	9 0
	All other sorts of wines not containing more than 42 per cent of proof spirit	Ditto .	4 8
	Provided that all sparkling and still wines containing more than 42 per cent of proof spirit shall be liable to duty at the rate applicable to "All other sorts of Spirit."		

1. The Government of India, in exercise of the powers conferred by the Indian Tariff Act, 1894, has decided that the duty on the above-mentioned articles shall be as follows:

on rendered effectually
chedule of the Indian

SCHEDULE II—IMPORT TAXES—*contd*PART II—*contd*Articles which are liable to '[non-protective] duty at special rates—*contd*

No	Names of Articles	Unit or method of assessment	Rate of duty
	SUGAR		Rs. a
*34	SUGAR, excluding confectionery (see No. 124)—		
	(1) Sugar, crystallised or soft 23 Dutch Standard and above	cwt	4 8
	(2) Sugar, crystallised or soft inferior to 23 Dutch Standard but not inferior to 8 Dutch Standard.	cwt	4 0
	(3) Sugar, below 8 Dutch Standard, molasses and sugar candy	Ad valorem . . .	23 per cent]
	*[SACCHARINE]		
*34A	SACCHARINE (except in tablets)	Pound . . .	[5] 0]
*34B	SACCHARINE TABLETS . . .	Ad valorem . . .	*[15 per cent or Rs. 5 per pound of Saccharine contents, whichever is higher]
	OTHER FOOD AND DRINK.		
35	SALT, excluding salt exempted under No. 2	Indian maund of 82½ lbs avoirdupois weight	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place]
	TOBACCO		
*36	TOBACCO, unmanufactured	Pound . . .	1 8]
37	CIGARS * * * . . .	Ad valorem . . .	75 per cent

()
 * Items 34A, 34B and the heading thereto were inserted by s. 3(I) and Sch. I of the Indian Finance Act 1923.

* Substituted by s. 2 of the Indian Tariff (Amendment) Act, 1926 (17 of 1926)

* This item was substituted by s. 4 and Sch. II of the Indian Finance Act, 1927 (5 of 1927)

* The words ' and Cigarettes ' were omitted by s. 2 and Sch. of Act 14 of 1925

SCHEDULE II.—IMPORT TARIFF—*contd.*PART II—*contd.*Articles which are liable to ¹[non-protective] duty at special rates—*contd.*

No	Names of Articles.	Unit or method of assessment	Rate of duty.
	TOBACCO— <i>contd.</i>		Rs A
² [37-A]	Cigarettes of value—		
	(a) not exceeding Rs. 10 8 per thousand.	Thousand . . .	7 0
	(b) exceeding Rs. 10 8 per thousand.	Thousand . . .	10 8]
[NOTE—For the purposes of this item, 'valuo' means real value as defined in section 30 of the Sea Customs Act, 1879, provided that the amount to be deducted on account of duties payable on importation to determine the real value in accordance with the provisions of clause (a) of the said section shall be Rs. 7 per thousand]			
38	All other sorts of TOBACCO manu- factured	Pound . . .	Rs. A 2 4
	<i>II—Raw Materials and produce and articles mainly unmanufactured—</i>		
	COAL, COKE AND PATENT FUEL		
39	COAL, COKE AND PATENT FUEL .	Ton . . .	0 8
	³ [METALS]		
⁴ [30A]	TIN, block	Ton . . .	250 0]
	OILS.		
40	KEROSENE, **** also any mineral oil other than kerosene and motor spirit which has its flash- ing point below one hundred degrees of Fahrenheit's thermo- meter by Abel's close test	Imperial gallon .	Two annas and six pies.
		
⁴ [40A]	MOTOR SPIRIT	Imperial gallon .	Four annas]

¹ These words were inserted by s. 2 (2) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927).² Inserted by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1925 (14 of 1925)³ Item 30A and the heading thereto were inserted by s. 2 (2) and Sch. of the Steel Industry⁴ Item 40 were omitted by s. 3 and Sch.

SCHEDULE II —IMPORT TARIFF—*contd*PART II—*contd.*Articles which are liable to '[non-protective] duty at special rates—*contd*

No.	Names of Articles	Unit or method of assessment	Rate of duty
	OILS—<i>contd</i>		Rs. &
41	MINERAL OIL— (1) which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is ordinarily used for the latching of jute or other fibre.	Ton .	10 0
	(2) which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is such as is not ordinarily used for any other purpose than for lubrication,	Imperial gallon .	One anna and four pies
	(3) which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, and is such as is not ordinarily used except as fuel or for some sanitary or hygienic purposes	<i>Ad valorem</i> . .	7½ per cent]
	III—Articles wholly or mainly manufactured—		
	APMS, AMMUNITION AND MILITARY STORES		
42	Subject to the exemptions specified in No. 12—		
	(1) Firearms including gas and air guns, gas and air rifles and gas and air pistols not otherwise specified (see Nos 86A and 141)	Each . . .	Rs. 15 or 30 per cent <i>ad valorem</i> , whichever is higher]
	(2) Barrels for the same, whether single or double	15 or 30 per cent <i>ad valorem</i> whichever is higher
		
		

¹ These words were inserted by s. 2 (2) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927).

² Item 41 was substituted by s. 2 and Sch. of the Indian Tariff (Amendment) Act, 1928 (17 of 1928).

³ Sub-head (1) was substituted by s. 2 and Sch., *ibid*.

⁴ Original sub-heads (3) and (4) were omitted by s. 2 and Sch., *ibid*.

SCHEDULE II —IMPORT TARIFF—*contd.*PART II—*contd.*Articles which are liable to ¹[non-protective] duty at special rates—*contd.*

No	Names of Articles	Unit or method of assessment.	Rate of duty
	ARMS, AMMUNITION AND MILITARY STORES— <i>contd.</i>		
	"[(3)] Main springs and magazine springs for firearms, including ² [gas guns, gas rifles and gas pistols]	Each . . .	Rs 5
	"[(4)] Gun stocks and breech blocks.	" . . .	3
	[(5)] Revolver cylinders for each cartridge they will carry	" . . .	2
	"[(6)] Actions (including skeleton and waster) breech bolts and their heads cocking pieces and locks for muzzle loading arms	" . . .	1
	"[(7)] Machines for making, loading or closing cartridges for rifled arms	Ad valorem . . .	30 per cent
	"[(8)] Machines for capping cartridges for rifled arms	Ad valorem . . .	30 per cent
	"[CARRIAGES AND CARTS]		
"42A	Motor Cars motor cycles, and motor scooters and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof provided that such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles included in this item or in No 87 shall be dutiable at the rate of duty specified for such articles	Ad valorem . . .	20 per cent.]
	CHEMICALS, DRUGS AND MEDICINES		
43	Opium and its all kinds and their derivatives	Ser of 80 tolas . . .	"2½ 0 or 15 per cent. ad valorem, whichever is higher]

¹ These words were inserted by s 2 (2) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927)² Original sub heads (5) to (10) were renumbered as (3) to (8) by s 2 and Sch of Act 17 of 28³ These words were substituted for the words "gas guns and rifles" by s 2 and Sch, 1927

SCHEDULE II —IMPORT TARIFF—*contd.*PART II—*concluded*

Articles which are liable to "[non-protective] duty at special rates—*concluded*

No	Names of Articles	Unit or method of assessment	Rate of duty
WOLLS AND TEXTILE FABRICS			
43A	Artificial silk yarn and thread	<i>Ad valorem</i>	7½ per cent]
44	COTTON TWIST and YARN, and COTTON SEWING or DARNING THREAD	<i>Ad valorem</i>	5 per cent * [or 1½ annas per pound whichever is higher]
45	COTTON PIECE-GOODS . . .	<i>Ad valorem</i>	11 per cent]
45A	Silk mixtures, that is to say— (a) fabrics composed in part of some other textile than silk and in which any portion		
		20 per cent]
	(c) articles made from such fabrics and not otherwise specified (<i>see</i> No 100A)		
MISCELLANEOUS			
46	MATCHES— (1) In boxes containing on the average not more than 100 matches	Per gross of boxes	Rs A 1 8
	(2) In boxes containing on the average more than 100 matches	For every 25 matches or fraction thereof in each box, per gross of boxes	0 6
46A	Undipped SPLINTS such as are ordinarily used for match making	Pound	Four annas and six pies]
46B	VENEERS such as are ordinarily used for making match boxes, including boxes and parts of boxes made of such veneers	Pound	Six annas]
46C	PORTLAND CEMENT . . .	Ton	Rs 9]
46D	PRINTER'S INK . . .	<i>Ad valorem</i>	5 per cent]

* These words were inserted by s 2 (2) and Schedule of the Steel Industry (Protection) Act, 1927 (3 of 1927)

(To have effect up to
Amendment) Act, 1925 (14 of 1925)

* These items were inserted by s 3 and 1st Schedule of the Indian Finance Act, 1924.

* These items were inserted by s 2 and Sch of the Indian Tariff (Amendment) Act, 1926 (17 of 1926).

SCHEDULE II.—IMPORT TARIFF—*contd.*

PART IV.

Articles which are liable to duty at 10 per cent. *ad valorem*.

No.	Names of Articles
	<i>II — Raw materials and produce and articles mainly unmanufactured—</i>
	METALLIC ORBS AND SCRAP IRON OR STEEL FOR RE-MANUFACTURE
55	IRON OR STEEL, old
	<i>III — Articles wholly or mainly manufactured—</i>
	HARDWARE, IMPLEMENTS AND INSTRUMENTS.
59	TELEGRAPHIC INSTRUMENTS AND APPARATUS, and parts thereof imported by, or under the orders of, a Railway Company
	[METALS—IRON AND STEEL]
100	IRON alloys
	IRON angle, channel and tee not otherwise specified (<i>see</i> No 143)
	IRON bar and rod not otherwise specified (<i>see</i> No 144)
	IRON pig
	IRON rice bowl
61	IRON OR STEEL anchors and cables
	IRON OR STEEL bolts and nuts, including hook bolts and nuts for roofing
	IRON OR STEEL hoops and strips
	IRON OR STEEL nails, rivets and washers all sorts, not otherwise specified (<i>see</i> No 145)
	IRON OR STEEL pipes and tubes, also fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like, excluding pipes, tubes and fittings therefor otherwise specified (<i>see</i> No 146)
	IRON OR STEEL railway track material not otherwise specified (<i>see</i> Nos 63 and 150) including bearing plates, cast iron sleepers and fastenings therefor, and lever boxes
	IRON OR STEEL tramway track material, not otherwise specified (<i>see</i> No 150) including rails, fish plates, tiebars, switches, crossings and the like materials of ships and sizes specially adapted for tramway tracks
	IRON OR STEEL sheets (including cuttings, discs and circles) under $\frac{1}{2}$ inch thick, whether fabricated or not, if coated with metals other than tin or zinc
	IRON OR STEEL plates and sheets (including cuttings, discs and circles) not under $\frac{1}{2}$ inch thick, not otherwise specified (<i>see</i> Nos 146, 147, 153 and 154), whether fabricated or not
	IRON OR STEEL barbed or stranded fencing wire and wire rope.

* Items 60, 61 and 62 and the heading thereto were substituted by a 2 (2) and Sch. of the Steel Industry (Protection) Act, 1927 (3 of 1927)

SCHEDULE II —IMPORT TARIFF—*contd*PART IV—*contd*Articles which are liable to duty at 10 per cent *ad valorem*—*contd*

No	Names of Articles
	METALS—IRON AND STEEL—<i>contd</i>
	IRON OR STEEL (other than bar or rod) specially designed for the reinforcement of concrete.
	IRON OR STEEL expanded metal
62	STEEL, angle and tee if galvanized, tinned or lead coated
	STEEL (other than bars) alloy, crucible, shear, blister and tub
	STEEL (other than bars) made for springs and cutting tools by any process
	STEEL, ingots, blooms, and billets, and slabs of a thickness of $1\frac{1}{2}$ inches or more
	STEEL, bar and rod, the following kinds—
	(a) shapes specially designed for the reinforcement of concrete, if the smallest dimension is under $\frac{1}{2}$ inch.
	(b) all shapes and sizes, if—
	(i) of alloy, crucible, shear, blister or tub steel or
	(ii) galvanized or coated with other metals, or
	(iii) planished or polished including bright steel shunting,
	(c) other qualities, if of any of the following shapes and sizes—
	(i) rounds under $\frac{1}{2}$ inch diameter,
	(ii) squares under $\frac{1}{2}$ inch side
	(iii) flats, if under 1 inch wide and not over $\frac{1}{2}$ inch thick,
	(iv) flats not under 8 inches wide and not over $\frac{1}{2}$ inch thick,
	(v) ovals, if the dimension of the major axis is not less than twice that of the minor axis,
	(vi) all other shapes any size]
	[RAILWAY PLANT AND POLLING STOCK.]
63	RAILWAY PLANT AND POLLING STOCK, for permanent use, and not for sale or hire, when

¹ Item 63 and the heading thereto were substituted by s. 2 (a) and Sch. of the Steel Industry (Protection) Act, 1927 (3 of 1927)

SCHEDULE II —IMPORT TARIFF—*contd*PART IV—*concl'd*Articles which are liable to duty at 10 per cent. *ad valorem*—*concl'd*

No.	Names of Articles
	RAILWAY PLANT AND ROLLING-STOCK— <i>contd</i>
	[Provided also that articles of machinery as defined in No 18A or No 18D shall not be deemed to be included hereunder]
63A	COMPONENT PARTS OF RAILWAY MATERIALS, as defined in No 63, namely, such parts only as are essential for the working of railways and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose
	From 1894 to 1895, the duty on the following articles shall be 10 per cent. <i>ad valorem</i> :—
64	SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, launches, boats and barges imported entire or in sections
	[Provided that articles of machinery as defined in No 18A or No 18D shall, when separately imported, not be deemed to be included hereunder]

PART V.

Articles which are liable to duty at 15 per cent *ad valorem*.

No	Names of Articles
	I.—Food, Drink and Tobacco—
	FISH
65	FISH, excluding salted fish (see No 27)
66	FISHMAWNS, including singally and sozille, and sharkfins
	FRUITS AND VEGETABLES
67	FRUITS AND VEGETABLES, all sorts, fresh, dried, salted or preserved.
	GRAIN, PULSE AND FLOUR
68	FLOUR [except sago flour]
	PROVISIONS AND OILMAN'S STORES
69	PROVISIONS AND OILMAN'S STORES AND GROCERIES, all sorts, excluding vinegar in casks (see No 48)

SCHEDULE II —IMPORT TARIFF—*contd.*PART V—*contd*Articles which are liable to duty at 15 per cent *ad valorem*—*contd.*

No	Names of Articles
	SPICES
70	SPICES, all sorts
	TEA.
71	TEA
	OTHER FOOD AND DRINK
72	COFFEE
73	All other sorts of Food and Drink not otherwise specified
	<i>II—Raw materials and produce and articles mainly unmanufactured—</i>
	GUMS, RESINS, AND LAC
74	GUMS, RESINS AND LAC, all sorts, ¹ [not otherwise specified (<i>see</i> No 10B)]
	OILS
75	All sorts of animal, essential, mineral, and vegetable non essential oils not otherwise specified (<i>see</i> Nos 40, ² [40A] and 41)
	SEEDS
76	SEEDS, all sorts, ³ [not otherwise specified]
	TALLOW, STEARINE AND WAX
⁴ 77	All sorts of stearine wax, grease and animal fat not otherwise specified]
	TEXTILE MATERIALS
78	TEXTILE MATERIALS, the following — Silk waste, and raw silk including cocoons, raw flax, hemp, jute and ⁵ all other unmanufactured textile materials not otherwise specified
	WOOD AND TIMBER
79	WOOD AND TIMBER, all sorts, not otherwise specified, including all sorts of ornamental wood.

¹ These words were added by s 2 and Sch of the Indian Tariff (Amendment) Act, 1926 (17 of 1926)² The figures and letter were inserted by s 3 and Sch I of the Indian Finance Act, 1925 (13 of 1925)³ These words were substituted by s 4 and Sch II of the Indian Finance Act, 1927 (5 of 1927)⁴ This item was substituted by s 2 and Sch of Act 24 of 1927

SCHEDULE II —IMPORT TARIFF—*contd*PART V—*contd*Articles which are liable to duty at 15 per cent *ad valorem*—*contd*

No	Names of Articles
MISCELLANEOUS	
80	CANES and MATRONS.
81	COWRIES and SHELLS
82	IVORY, unmanufactured.
83	PRECIOUS STONES, unset and imported cut (<i>see</i> No 5)
84	All other raw materials and produce and articles mainly unmanufactured not otherwise specified.
	<i>III—Articles wholly or mainly manufactured—</i>
APPAREL	
85	Apparel
ARMS, AMMUNITION AND MILITARY STORES	
86	EXPLOSIVES, namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting roburite, blasting tonite, and all other sorts including detonators and blasting fuzes
*[86A]	ORNAMENTAL ARMS of an obsolete pattern possessing only an antiquarian value, masonic and theatrical and fancy dress swords provided they are virtually useless for offensive or defensive purposes, and <i>not</i> intended exclusively for domestic, agricultural and industrial purposes]
[CONVEYANCES]	
[87]	[CONVEYANCES not specified in No 142, namely] tramcars motor omnibuses motor taxis persimbul conveyances except auto also adapted for use as parts or accessories of motor cars motor cycles or motor scooters (<i>see</i> No *[42A])]

* Item 87 and the heading thereto were substituted by s. 3 (1) and 1st Schedule of the Indian Finance Act 1923

SCHEDULE II.—IMPORT TARIFF—*contd.*PART V—*contd*Articles which are liable to duty at 15 per cent. *ad valorem*—*contd.*

No	Names of Articles
	CHEMICALS, DRUGS, AND MEDICINES
88	CHEMICALS, DRUGS AND MEDICINES, all sorts, not otherwise specified
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS
89	CUTLERY, excluding plated cutlery (<i>see</i> No 129)
90	HARDWARE, IRONMONGERY AND TOOLS, all sorts, not otherwise specified.
100	IRON, STEEL, AND OTHER METALS, in the form of rods, pipes, tubes, sheets, plates, &c.
	one eighth more than connector used in purposes, and the fittings thereof]
91	All other sorts of IMPLEMENTS, INSTRUMENTS, APPARATUS AND APPLIANCES and parts thereof not otherwise specified
	DYES AND COLOURS
92	DYEING AND TANNING SUBSTANCES all sorts [not otherwise specified] and paints and colours and painters' materials, all sorts.
	FURNITURE, CABINETWARE AND MANUFACTURES OF WOOD
93	FURNITURE, CABINETWARE and all other manufactures of wood not otherwise specified.
	GLASSWARE AND EARTHENWARE
94	GLASS AND GLASSWARE, Lacquered ware, earthenware, china and porcelain, all sorts except glass bangles and beads and false pearls (<i>see</i> No 131)
	HIDES AND SKINS AND LEATHER
95	HIDES AND SKINS not otherwise specified LEATHER AND LEATHER MANUFACTURES, all sorts, not otherwise specified
	MACHINERY
96	Machinery, not otherwise specified, of less than 10 horse power]

* These words were inserted by s. 3 (f) and 1st Schedule of the Indian Finance Act, 1923.

SCHEDULE II —IMPORT TARIFF—*contd*PART V—*contd*Articles which are liable to duty at 15 per cent *ad valorem*—*contd*

No	Names of Articles
METALS IRON AND STEEL	
97	All sorts of IRON AND STEEL and manufactures thereof not otherwise specified
METALS OTHER THAN IRON AND STEEL	
98	All sorts of METALS OTHER THAN IRON AND STEEL, and manufactures thereof, not otherwise specified
PAPER, PASTE BOARD AND STATIONERY	
109	PAPER AND ARTICLES MADE OF PAPER AND PAPER MACHÉ, PASTE BOARD, MILLBOARD, AND CARDBOARD, all sorts, and STATIONERY, including : * * * * * drawing and copy books, labels, advertising circulars sheet or card almanacs and calendars, Christmas, Easter and other cards, including cards in booklet form, including also waste-paper and all newspapers for packing but excluding trade catalogues and advertising circulars imported by packet, book, or parcel post (see No 21) * (and postage stamps whether used or unused (see No 21A)) * (and paper and stationery otherwise specified (see Nos 155 and 156))
YARNS AND TEXTILE FABRICS	
100	<p>YARNS AND TEXTILE FABRICS that is to say —</p> <p>Cotton thread other than sewing or darning thread, and all other manufactured cotton goods not otherwise specified</p> <p>Flax, twist and yarn, and manufactures of flax</p> <p>Haberdashery and millinery, excluding articles made of silk (see No 134)</p> <p>Hemp manufactures</p> <p>Hosiery, excluding articles made of silk (see No 134)</p> <p>Jute, twist and yarn and jute manufactures excluding second hand or used gunny bags * [or cloth] (see No 22)</p> <p>Silk yarn, noils and warps and silk thread</p> <p>Woollen yarn, knitting wool and other manufactures of wool, including felt</p> <p>All other sorts of yarns and textile fabrics not otherwise specified</p>

SCHEDULE II—IMPORT TARIFF—*contd.*PART VI—*contd.*Articles which are liable to duty at 30 per cent. *ad valorem*—*contd.*

No	Names of Articles
CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS	
128	CLOCKS AND WATCHES AND PARTS THEREOF
129	ARTICLES PLATED WITH GOLD AND SILVER
130	MUSICAL INSTRUMENTS ¹ [AND PARTS THEREOF]
GLASSWARE AND EARTHENWARE	
131	GLASS BANGLES AND BEADS and false pearls
METALS	
132	GOLD PLATE, gold thread and wire, and gold manufactures, all sorts
133	SILVER PLATE, silver thread and wire, and silver manufactures, all sorts
YARNS AND TEXTILE FABRICS	
134	SILK PIECE GOODS, and other manufactures of silk ² [not otherwise specified (see Nos 40 A and 100 A)]
MISCELLANEOUS	
135	FIRE WORKS ³ [not otherwise specified (see No 106 A)]
136	IVORY, manufactured
137	JEWELLERY AND JEWELS
138	PRINTS, engravings and pictures, including photographs and picture postcards
38	* * * * *
140	SMOKERS REQUISITES, excluding tobacco (Nos 36 to 38) and matches (No 46)
141	To

¹ These words were added by s 3 (1) and Sch I of the Indian Finance Act, 1923² These words and figures were inserted by s 2 and Sch of the Indian Tariff (Amendment) Act, 1925 (14 of 1925)³ Item No 139 was omitted by s 4 and Sch II of the Indian Finance Act, 1927 (5 of 1927)⁴ These words were inserted by s 2 and Sch of the Indian Tariff (Amendment) Act, 1926 (17 of 1926)

SCHEDULE II —IMPORT TARIFF—*contd.*

[PART VII.

Articles which are liable to protective duty at special rates.

No.	Names of Articles.	Rate of duty
CONVEYANCES		
142	COAL TUBS, tipping wagons and the like conveyances designed for use on light rail track, if adapted to be worked by manual or animal labour and if made mainly of iron or steel, and component parts thereof made of iron or steel—	
	(a) if of British manufacture	Rs 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher.
	(b) if not of British manufacture	Rs 21 per ton or 17 per cent <i>ad valorem</i> , whichever is higher, plus Rs 15 per ton
METALS—IRON AND STEEL		
143	IRON angle, channel and tee—	
	(a) fabricated, all qualities—	
	(i) of British manufacture	Rs 21 per ton or 17 per cent <i>ad valorem</i> , whichever is higher.
	(ii) not of British manufacture	Rs 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 15 per ton
	(b) not fabricated, kinds other than galvanized, tinned or lead coated and other than Crown or superior qualities—	
	(i) of British manufacture	Rs 19 per ton
	(ii) not of British manufacture	Rs 30 per ton.
144	IRON, COMMON BAR not galvanized, tinned or lead coated if not of any shape and dimension specified in clause (a) or clause (c) of No 62—	
	(i) of British manufacture	Rs 26 per ton.
	(ii) not of British manufacture	Rs 37 per ton.
145	IRON OR STEEL NAILS, wire or French	Rs 3 per cwt
146	IRON OR STEEL PIPES and tubes and fittings therefor, if riveted or otherwise built up of plates or sheets—	
	(a) galvanized	Rs 33 per ton or 17 per cent <i>ad valorem</i> , whichever is higher

¹ After the expiry of the original Part VII (items 142-154) on 31st March, 1927, the present Part VII (items 142-154) was inserted by s 2 (2) and Sch. of the Steel Industry (Protection) Act, 1927 (3 of 1927), and shall have effect up to 31st March 1934—see s 2 (3) of the same Act

SCHEDULE II —IMPORT TARIFF—*contd.*PART VII—*contd.*Articles which are liable to protective duty at special rates—*contd*

No	Names of Articles	Rate of duty
	METALS—IRON AND STEEL—<i>contd</i>	
	(b) not galvanized—	
	(i) not under $\frac{1}{4}$ inch thick—	
	of British manufacture . . .	Rs 21 per ton or 17 per cent <i>ad valorem</i> , whichever is higher
	not of British manufacture . . .	Rs 21 per ton or 17 per cent <i>ad valorem</i> , whichever is higher, plus Rs 15 per ton
	(ii) under $\frac{1}{4}$ inch thick—	
	of British manufacture . . .	Rs 35 per ton or 17 per cent <i>ad valorem</i> , whichever is higher
	not of British manufacture . . .	Rs 39 per ton or 17 per cent <i>ad valorem</i> , whichever is higher, plus Rs 26 per ton
147	IRON OR STEEL plates or sheets (including cuttings, discs, and circles) not under $\frac{1}{4}$ inch thick and not of cast iron—	
	(a) fabricated, all qualities—	
	(i) of British manufacture . . .	Rs 21 per ton or 17 per cent <i>ad valorem</i> , whichever is higher.
	(ii) not of British manufacture . . .	Rs 21 per ton or 17 per cent <i>ad valorem</i> , whichever is higher, plus Rs 15 per ton
	(b) not fabricated, chequered and ship, tank, bridge and common qualities—	
	(i) of British manufacture . . .	Rs 20 per ton.
	(ii) not of British manufacture . . .	Rs 36 per ton.
148	IRON OR STEEL sheets (including cuttings, discs and circles) under $\frac{1}{4}$ inch thick—	
	(a) fabricated—	
	(i) galvanized	Rs 33 per ton or 17 per cent <i>ad valorem</i> , whichever is higher.
	(ii) all other sorts not otherwise specified (see No 61)—	
	of British manufacture . . .	Rs 39 per ton or 17 per cent <i>ad valorem</i> , whichever is higher
	not of British manufacture . . .	Rs 39 per ton or 17 per cent <i>ad valorem</i> , whichever is higher, plus Rs 26 per ton

SCHEDULE II —IMPORT TARIFF—*contd*PART VII—*contd*Articles which are liable to protective duty at special rates—*contd*

No	Name of Article	Rate of duty
	METALS—IRON AND STEEL— <i>ad valorem</i> (b) not fabricated— (i) galvanized	Rs. 50 per ton
	(ii) all other sorts not otherwise specified (see Nos 61 and 134)— of British manufacture	Rs 30 per ton
	not of British manufacture	Rs 50 per ton.
149	IRON OR STEEL WIRE other than barbed or stranded fencing wire wire rope or wire netting	Rs 60 per ton
149A	IRON OR STEEL, the original material (but not including machinery * * *) of any ship or other vessel intended for inland or harbour navigation which has been assembled abroad, taken to pieces and shipped for re-assembly in India	Rs 3 per ton or 10 per cent <i>ad valorem</i> whichever is higher
	Provided that articles dutiable under these items shall not be deemed to be dutiable under any other item	
150	IRON OR STEEL RAILWAY TRACK MATERIAL— A Rails (including tramway rails the heads of which are not grooved)— (a) (i) 30 lbs per yard and over	Rs 13 per ton.
	(ii) fish plates therefor	Rs 6 per ton or 10 per cent, <i>ad valorem</i> : whichever is higher
	(iii) spikes and tie bars therefor— of British manufacture	Rs 26 per ton
	not of British manufacture	Rs 37 per ton.
	(b) under 30 lbs per yard and fish plates spikes and tie bars therefor— if of British manufacture	Rs 20 per ton
	if not of British manufacture	Rs 3 per ton
	B Switches and crossings and the like materials not made of alloy steel including switches and crossings and the like materials for tramway rails the heads of which are not grooved— (i) for rails 30 lbs per yard and over	Rs 14 per ton or 17 per cent, <i>ad valorem</i> whichever is higher

* The words and figures see Nos 51 and 51A were omitted by s 2 and Sch of Act 24 of 1927

SCHEDULE II —IMPORT TARIFF—*contd.*PART VII—*contd.*Articles which are liable to protective duty at special rates—*contd.*

No	Names of Articles	Rate of duty
	METALS—IRON AND STEEL—<i>contd.</i>	
	(u) for rails under 30 lbs per yard—	
	of British manufacture . . .	Rs 29 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher.
	not of British manufacture . . .	Rs 29 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs 12 per ton
	C Sleepers, other than cast iron, and keys and distance pieces and the like for use with such sleepers	Rs 10 per ton or 10 per cent. <i>ad valorem</i> , whichever is higher
151	STEEL, angle and tee, not otherwise specified (see No. 62) and beam, channel, red trough and piling—	
	(a) fabricated—	
	(i) of British manufacture	Rs 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher.
	(ii) not of British manufacture	Rs 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs 15 per ton
	(b) not fabricated—	
	(i) of British manufacture	Rs 16 per ton
	(ii) not of British manufacture	Rs 30 per ton
152	STEEL, bar and rod, not otherwise specified (see No. 62)—	
	(i) of British manufacture . . .	Rs 26 per ton
	(ii) not of British manufacture . . .	Rs 37 per ton.
153	STEEL, wire, not otherwise specified (see No. 62)—	
	(i) of British manufacture . . .	Rs 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher.
	(ii) not of British manufacture . . .	Rs 21 per ton or 17 per cent. <i>ad valorem</i> , whichever is higher, plus Rs 15 per ton

¹ These figures and letters were substituted for the figures and letter "51, 51A" by s 2 and Sch of Act 24 of 1927

SCHEDULE II.—IMPORT TARIFF—*concl'd*

PART VII—concl'd.

Articles which are liable to protective duty at special rates—conclud

No.	Names of Articles	Rate of duty
	METALS—IRON AND STEEL— <i>contd</i>	
154	STEEL, tinplates and tinned sheets, including tin taggers and cuttings of such plates, sheets or taggers	Rs 48 [per ton]

¹ [PAPER, PASTEBOARD AND STATIONERY.]

No	Names of Articles	Unit or method of assessment	Rate of duty
155	PRINTING PAPER (excluding chrome, marbled, tint, poster and stereo), all sorts which contain no mechanical wood pulp or in which the mechanical wood pulp amounts to less than 65 per cent of the fibre content	Pound	One anna
156	WRITING PAPER— (a) Ruled or printed forms (including letter paper with printed headings) and account and manuscript books and the binding thereof	Pound	One anna or 15 per cent <i>ad valorem</i> , whichever is higher
	(b) All other sorts	"	One anna]

²SCHEDULE III.—EXPORT TARIFF.

No	Names of Articles	Per	Rate of duty.
			Rs A.
'[1	JUTE, other than Bimphatam Jute RAW JUTE— (1) Cuttings (2) All other descriptions	Bale of 400 lbs . Ditto .	1 4 4 8]
'[2	JUTE MANUFACTURES, when not in actual	Ton of 2,240 lbs ~ .	20 0

¹ This heading and the original items 115 and 156 were inserted by a 2 and Schedule of the Bamboo Paper (Protection) Act, 1925 (25 of 1925)

*These items were substituted by a 2 and Ech of Act 20 of 1927, and shall have effect on to 31st March 1939

* This Schedule was substituted for old Schedules III, IV and V by s. 4 and Sch. I of the Indian Tariff (Amendment) Act, 1916 (4 of 1916)

¹ Item 1 was substituted by s. 3 (i) of the Indian Tariff (Amendment) Act, 1917 (6 of 1917).

⁶ Item 2 was substituted by s. 3 (ii), *ibid*

SCHEDULE III —EXPORT TARIFF—*contd.*

No	Names of Articles	Per	Rate of duty.
	JUTE, other than Bimlipatam jute— <i>contd</i>		Rs A.
	(2) Hessians and all other descriptions of jute manufactures not otherwise specified.	Ton of 2,240 lbs	32 0]
	¹ [HIDES AND SKINS]		
¹ [3]	RAW HIDES AND SKINS	<i>Ad valorem</i> . . .	² [5 per cent.]
	RICE		
² [4]	RICE, husked or unhusked, including rice flour, but excluding rice bran and rice dust, which are free	Indian maund of 82½ lbs avoirdupois weight	0 3
"	" "	" "	" "
"	" "	" "	" "

THE PRISONS ACT, 1894

CONTENTS

CHAPTER I

PRELIMINARY.

SECTIONS

- 1 Title, extent and commencement.
- 2 Repeal
- 3 Definitions.

CHAPTER II

MAINTENANCE AND OFFICERS OF PRISONS

4. Accommodation for prisoners
5. Inspector General.

¹ Item 3 and the heading thereto were inserted by s. 3 of the Indian Tariff (Amendment) Act, 1910/1911.

SECTIONS

- 6 Officers of prisons
 - 7 Temporary accommodation for prisoners
-

CHAPTER III

DUTIES OF OFFICERS

Generally

- 8 Control and duties of officers of prisons
- 9 Officers not to have business dealings with prisoners
- 10 Officers not to be interested in prison contracts

Superintendent

- 11 Superintendent
- 12 Records to be kept by Superintendent

Medical Officer

- 13 Duties of Medical Officer
- 14 Medical Officer to report in certain cases
- 15 Report on death of prisoner

Jailer

- 16 Jailer
- 17 Jailer to give notice of death of prisoner
- 18 Responsibility of Jailer
- 19 Jailer to be present at night
- 20 Powers of Deputy and Assistant Jailers

Subordinate Officers

- 21 Duties of gate keeper
 - 22 Subordinate officers not to be absent without leave
 - 23 Convict officers
-

CHAPTER IV

ADMISSION REMOVAL AND DISCHARGE OF PRISONERS

- 24 Prisoners to be examined on admission
- 25 Effects of prisoners
- 26 Removal and discharge of prisoners

CHAPTER V

DISCIPLINE OF PRISONERS

SECTIONS

- 27 Separation of prisoners
 - 28 Association and segregation of prisoners
 - 29 Solitary confinement
 - 30 Prisoners under sentence of death
-

CHAPTER VI

FOOD CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS

- 31 Maintenance of certain prisoners from private sources
 - 32 Restriction on transfer of food and clothing between certain prisoners
 - 33 Supply of clothing and bedding to civil and unconvicted criminal prisoners
-

CHAPTER VII

EMPLOYMENT OF PRISONERS

- 34 Employment of civil prisoners
 - 35 Employment of criminal prisoners
 - 36 Employment of criminal prisoners sentenced to simple imprisonment
-

CHAPTER VIII

HEALTH OF PRISONERS

- 37 Sick prisoners
 - 38 Record of directions of Medical Officers
 - 39 Hospital
-

CHAPTER IX

VISITS TO PRISONERS

- 40 Visits to civil and unconvicted criminal prisoners
- 41 Search of visitors

CHAPTER X

OFFENCES IN RELATION TO PRISONS

SECTIONS

- 42 Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners
- 43 Power to arrest for offence under section 42
- 44 Publication of penalties

CHAPTER XI

PRISON OFFENCES

- 45 Prison-offences
- 46 Punishment of such offences
- 47 Plurality of punishments under section 46
- 48 Award of punishments under sections 46 and 47
- 49 Punishments to be in accordance with foregoing sections
- 50 Medical Officer to certify to fitness of prisoner for punishment
- 51 Entries in punishment books
- 52 Procedure on committal of heinous offence
- 53 Whipping
- 54 Offences by prison subordinates

CHAPTER XII

MISCELLANEOUS

- 55 Extramural custody control and employment of prisoners
- 56 Confinement in irons
- 57 Confinement of prisoners under sentence of transportation in irons
- 58 Prisoners not to be ironed by Jailer except under necessity
- 59 Power to make rules
- 60 Power of Local Government to make rules
- 61 Exhibition of copies of rules
- 62 Exercise of powers of Superintendent and Medical Officer

(Chapter I —Preliminary)

ACT No IX of 1894 ¹

[22nd March, 1894]

AN Act to amend the law relating to Prisons

WHEREAS it is expedient to amend the law relating to prisons in British India, and to provide rules for the regulation of such prisons, It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1 (1) This Act may be called the Prisons Act, 1894

(2) It extends to the whole of British India, inclusive of ² * * * British Baluchistan, the Sonthal Parganas and the Pargana of Spiti, and

(3) It shall come into force on the first day of July, 1894

(4) Nothing in this Act shall apply to civil jails in the Presidency of Bombay outside the city of Bombay, and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of ³ Bombay Act II of 1874, as amended by subsequent enactments—

⁴ 2 (1) On and after the said first day of July, 1894, the enactments mentioned in the schedule shall be repealed to the extent specified in the fourth column thereof

(2) But all rules and appointments made, directions given and orders issued under any of those enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, given and issued under this Act

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof

3 In this Act—

(1) “ prison ” means any jail or place used permanently or temporarily under the general or special orders of a Local Government for the deten-

¹ For Statement of Objects and Reasons see Statement of Objects and Reasons of India 1894 Pt V, p 14, and for Proceedings in Council

for see the Burma Laws Act 1898 (13 of 1872) s 3 as amended by

of 1 Reg The Act has been declared to be in force in the District of Angul by the Angul Laws Regulation 1913 (3 of 1913) B & O Code Vol I

² The words “ Upper Burma ” were repealed by the Burma Laws Act 1898 (13 of 1898), see the Fifth Schedule, Bur Code

³ Bur Code Vol II
⁴ So much of this section and of the Schedule as relates to the Upper Burma Laws Act, 1886 (20 of 1886) has been repealed by the Burma Laws Act, 1898 (13 of 1898) Bur Code

*(Chapter I — Preliminary Chapter II — Maintenance and
Officers of Prisons)*

tion of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

- (a) any place for the confinement of prisoners who are exclusively in the custody of the police,
- (b) any place specially appointed by the Local Government under section 541 of the ¹ Code of Criminal Procedure, 1882 or
- (c) any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail

(2) “criminal prisoner” means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court martial

(3) “convicted criminal prisoner” means any criminal prisoner under sentence of a Court or Court martial and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1882,¹ or under the Prisoners Act, 1871

(4) “civil prisoner” means any prisoner who is not a criminal prisoner

(5) “remission system” means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails

(6) “history-ticket” means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder

(7) “Inspector General” means the Inspector General of Prisons

(8) “Medical Subordinate” means an Assistant Surgeon, Apothecary or qualified Hospital Assistant and

(9) “prohibited article” means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act

CHAPTER II

MAINTENANCE AND OFFICERS OF PRISONS

4 The Local Government shall provide for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners

Accommodation for prisoners

¹ See now the Code of Criminal Procedure 1898 (Act 5 of 1898)

(Chapter II —Maintenance and Officers of Prisons Chapter III —
Duties of Officers.)

Inspector
General

5 An Inspector General¹ shall be appointed for the territories subject to each Local Government, and shall exercise, subject to the orders of the Local Government, the general control and superintendence of all prisons situated in the territories under such Government

Officers of
Prisons

6 For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the Local Government thinks necessary

Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, declare by order in writing that in any prison specified in the order the office of Jailer shall be held by the person appointed to be Superintendent

Temporary
accommoda-
tion for
prisoners

7 Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made by such officer and in such manner as the Local Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison

CHAPTER III

DUTIES OF OFFICERS

Generally

Control and
duties of
officers of
prisons

8 All officers of a prison shall obey the directions of the Superintendent, all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section 60

Officers not
to have
business
dealings
with prison-
ers.

9 No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner

Officers not
to be inter-
ested in pris-
on contracts

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison nor shall he derive any benefit, directly or

¹ For notification appointing an Inspector General for the N W F P see Gazette of India, 1901, Pt II, p 1305 and for Coorg see Coorg R and O, for Delhi see Gazette of India, 1912, Pt I, p 1105

² A further proviso has been added to s 6 in its application to the Punjab by s 2 of Punjab Act 9 of 1926

(Chapter III—Duties of Officers)

indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner

Superintendent

11 (1) Subject to the orders of the Inspector General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control Superintendent

(2) Subject to such general or special directions as may be given by the Local Government, the Superintendent of a prison other than a central prison or a prison situated in a presidency town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector General all such orders and the action taken thereon

12 The Superintendent shall keep or cause to be kept the following records — Records to be kept by Superintendent

- (1) a register of prisoners admitted
- (2) a book showing when each prisoner is to be released,
- (3) a punishment book for the entry of the punishments inflicted on prisoners for prison offences
- (4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison
- (5) a record of the money and other articles taken from prisoners,

and all such other records as may be prescribed by rules under section 59 or section 60

Medical Officer

13 Subject to the control of the Superintendent the Medical Officer shall have charge of the sanitary administration of the prison and shall perform such duties as may be prescribed by rules made by the Local Government under section 60 Duties of Medical Officer

14 Whenever the Medical Officer has reason to believe that the mind of a prisoner is or is likely to be, injuriously affected by the discipline or treatment to which he is subjected the Medical Officer shall report the case in writing to the Superintendent together with such observations as he may think proper Medical Officer to report in certain cases

This report, with the orders of the Superintendent thereon shall forthwith be sent to the Inspector General for information

¹ For rules as to Medical Officer's duties under s 13 see different local Rules and Orders

(Chapter III — Duties of Officers)

Report on
death of
prisoner

15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely —

- (1) the day on which the deceased first complained of illness or was observed to be ill,
- (2) the labour, if any, on which he was engaged on that day,
- (3) the scale of his diet on that day,
- (4) the day on which he was admitted to hospital,
- (5) the day on which the Medical Officer was first informed of the illness,
- (6) the nature of the disease,
- (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,
- (8) when the prisoner died, and
- (9) (in cases where a post mortem examination is made) an account of the appearances after death

together with any special remarks that appear to the Medical Officer to be required

Jailer

Jailer

16 (1) The Jailer shall reside in the prison unless the Superintendent permits him in writing to reside elsewhere

(2) The Jailer shall not, without the Inspector General's sanction in writing, be concerned in any other employment

Jailer to give
notice of
death of
prisoner

17 Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate

Responsi-
bility of
Jailer

18 The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners

Jailer to be
present at
night.

19. The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent, but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent

Powers of
Deputy and
Assistant
Jailers.

20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder

(Chapter III—Duties of Officers Chapter IV—Admission, Removal and Discharge of Prisoners)

Subordinate Officers

21 The officer acting as gate keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer

Duties of gate keeper

22 Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer

Subordinate officers not to be absent without leave.

23 Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code

Convict officers

CHAPTER IV

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS

24. (1) Whenever a prisoner is admitted into prison, he shall be searched and all weapons and prohibited articles shall be taken from him

Prisoners to be examined on admission

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book to be kept by the Jailer, a record of the state of the prisoner's health and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment and any observations which the Medical Officer thinks fit to add

(3) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer

25 All money or other articles in respect whereof no order of a competent Court has been made and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer

Effects of prisoners

26 (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer

Removal and discharge of prisoners

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal

(Chapter IV — Admission, Removal and Discharge of Prisoners Chapter V — Discipline of Prisoners)

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe

CHAPTER V

DISCIPLINE OF PRISONERS

Separation of prisoners

27 The requisitions of this Act with respect to the separation of prisoners are as follows —

- (1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing or conversing or holding any intercourse with, the male prisoners
- (2) in a prison where male prisoners under the age of eighteen are confined means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not
- (3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners and
- (4) civil prisoners shall be kept apart from criminal prisoners

Association and segregation of prisoners

28 Subject to the requirements of the last foregoing section convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other

Solitary confinement

29 No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison and every prisoner so confined in a cell for more than twenty four hours whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate

Prisoners under sentence of death.

30 (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence be searched by or by order of, the Jailor and all articles shall be taken from him which the Jailor deems it dangerous or inexpedient to leave in his possession

(2) Every such prisoner shall be confined in a cell apart from all other prisoners and shall be placed by day and by night under the charge of a guard

(Chapter VI — Food, Clothing and Bedding of Civil and Unconvicted Criminal Prisoners Chapter VII — Employment of Prisoners.)

CHAPTER VI

FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS

31 A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessities, but subject to examination and to such rules as may be approved by the Inspector General

Maintenance of certain prisoners from private sources

32. No part of any food, clothing, bedding or other necessities belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner, and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper

Restriction on transfer of food and clothing between certain prisoners

33 (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary

Supply of clothing and bedding to civil and unconvicted criminal prisoners

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner, and in default of such payment the prisoner may be released

CHAPTER VII

EMPLOYMENT OF PRISONERS

34 (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession

Employment of civil prisoners

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings, but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction to be determined by the Superintendent for the use of implements and the cost of maintenance

35 (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day

Employment of criminal prisoners

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fort

(Chapter VII—*Employment of Prisoners* Chapter VIII.—*Health of Prisoners*)

night cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him

Employment
of criminal
prisoners
sentenced to
simple im-
prisonment.

36 Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment, but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner

CHAPTER VIII

HEALTH OF PRISONERS

Sick pris-
oners

37 (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailor

(2) The Jailor shall, without delay call the attention of the Medical Subordinate to any prisoner desiring to see him, or who is ill or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner

Record of
directions of/
Medical
Officers

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history ticket or in such other record as the Local Government may by rule direct, and the Jailor shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailor thinks fit to make, and the date of the entry

Hospital

39. In every prison an hospital or proper place for the reception of sick prisoners shall be provided

(Chapter IX—Visits to Prisoners Chapter X—Offences in relation to Prisons)

CHAPTER IX

VISITS TO PRISONERS

40 Due provision shall be made for the admission, at proper times and under proper restrictions into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person

Visits to civil and unconvicted criminal prisoners.

41 (1) The Jailor may demand the name and address of any visitor to a prisoner and when the Jailor has any ground for suspicion, may search any visitor or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor

Search of visitors

(2) In case of any such visitor refusing to permit himself to be searched, the Jailor may deny him admission and the grounds of such proceeding with the particulars thereof shall be entered in such record as the Local Government may direct

CHAPTER X

OFFENCES IN RELATION TO PRISONS

42 Whoever, contrary to any rule under section 60 introduces or removes or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners

and every officer of a prison who contrary to any such rule knowingly suffers any such article to be introduced into or removed from any prison to be possessed by any prisoner or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate be liable to imprisonment for a term not exceeding six months or to fine not exceeding two hundred rupees, or to both

43 When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section and refuses on demand of such officer to state his name and residence or gives a name or residence which such officer knows or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police officer and thereupon such Police officer shall proceed as if the offence had been committed in his presence

Power to arrest for offence under section 42

(Chapter X — *Offences in relation to Prisons* Chapter XI — *Prison-offences*)Publication
of penalties

44 The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 42 and the penalties incurred by their commission

CHAPTER XI

PRISON OFFENCES

Prison
offences

45 The following acts are declared to be prison offences when committed by a prisoner —

- (1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison offence
- (2) any assault or use of criminal force,
- (3) the use of insulting or threatening language,
- (4) immoral or indecent or disorderly behaviour,
- (5) wilfully disabling himself from labour
- (6) contumaciously refusing to work
- (7) filing, cutting, altering or removing handcuffs fetters or bars without due authority
- (8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment,
- (9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment
- (10) wilful damage to prison property
- (11) tampering with or defacing history tickets records or documents,
- (12) receiving, possessing or transferring any prohibited article
- (13) feigning illness,
- (14) wilfully bringing a false accusation against any officer or prisoner,
- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison official, and
- (16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid

Punishment
of such
offences.

46¹ The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

- (1) a formal warning

Explanation—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and re-

¹ For rules issued with reference to clauses (4) (6) and (7) of section 46, see Genl R and O, Vol III

(Chapter VI—*Prison offences*)

recorded in the punishment book and on the prisoner's history-ticket

- (2) change of labour to some more irksome or severe form ¹[for such period as may be prescribed by rules made by the Governor General in Council]
- (3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment,
- (4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Governor General in Council,
- (5) the substitution of gunny or other coarse fabric for clothing of other material not being woollen for a period which shall not exceed three months
- (6) imposition of handcuffs of such pattern and weight in such manner and for such period as may be prescribed by rules made by the Governor General in Council,
- (7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor General in Council,
- (8) separate confinement for any period not exceeding ²[three] months

Explanation—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners,

- (9) penal diet,—that is restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the Local Government

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week

- (10) cellular confinement for any period not exceeding fourteen days

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement

¹ These words were inserted by s. 2 (a) of the Prisons (Amendment) Act, 1925 (17 of 1925)

² This word was substituted for the word 'six' by s. 2 (b), *ibid*

(Chapter XI—Prison offences)

Explanation—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners,

10 * * *

¹[(11)] penal diet as defined in clause (9) combined with ²[cellular] confinement 20 * * *

¹[(12)] whipping, provided that the number of stripes shall not exceed thirty

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters or to whipping

Plurality of
punishments
under
section 46

³[47 (1)] Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions namely—

(1) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section

(2) penal diet shall not be combined with change of labour under clause (2) of that section nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with ³[cellular] confinement

³[(3)] cellular confinement shall not be combined with separate confinement so as to prolong the total period of seclusion to which the prisoner shall be liable]

(4) whipping shall not be combined with any other form of punishment except cellular ⁴[and] separate confinement and loss of privileges admissible under the remission system

⁵[(5)] no punishment will be combined with any other punishment in contravention of rules made by the Governor General in Council]

⁵[(2)] No punishment shall be awarded for any such offence so as to combine with the punishment awarded for any other such offence two of the punishments which may not be awarded in combination for any such offence]

¹ Original clause (11) was repealed and clauses (12) and (13) were renumbered (11) and (12) respectively by s 9 of Act 17 of 1925

word solitary and the words
ibid
in (2) the word 'cellular' was
(5) was substituted by s 3 *ibid*
by the Repealing and Amending

and by s 3 of Act 17 of 1925

(Chapter VI — Prison offences)

48 (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector General

Award of punishments under sections 46 and 47

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever

49 Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections

Punishments to be in accordance with foregoing sections.

50 (1) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under section 46, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment shall certify accordingly in the appropriate column of the punishment book prescribed in section 12

Medical Officer to certify to fitness of prisoner for punishment.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health

51 (1) In the punishment book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted the prisoner's name register number and the class (whether habitual or not) to which he belongs, the prison offence of which he was guilty the date on which such prison-offence was committed the number of previous prison offences recorded against the prisoner and the date of his last prison offence, the punishment awarded and the date of infliction

Entries in punishment-books

(2) In the case of every serious prison offence, the names of the witnesses proving the offence shall be recorded and in the case of offences for which whipping is awarded the Superintendent shall record the substance of the evidence of the witnesses the defence of the prisoner and the finding with the reasons therefor

(3) Against the entries relating to each punishment the Jailor and Superintendent shall affix their initials as evidence of the correctness of the entries

52 If any prisoner is guilty of any offence against prison discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court

Procedure on committal of heinous offence

(Chapter XI—Prison offences Chapter XII—Miscellaneous)

of the District Magistrate or of any Magistrate of the first class ¹[or Presidency Magistrate] having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment which may extend to one year such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence or may sentence him to any of the punishments enumerated in section 46

²[Provided that any such case may be transferred for inquiry and trial by the District Magistrate to any Magistrate of the first class and by a Chief Presidency Magistrate to any other Presidency Magistrate and]

Provided also that no person shall be punished twice for the same offence

Whipping

53 (1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted in the way of school discipline with a lighter ratan

Offences by
prison subor-
dinate

54 (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission or without having given previous notice in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees or to imprisonment for a period not exceeding three months, or to both

(2) No person shall under this section be punished twice for the same offence

CHAPTER XII

MISCELLANEOUS

Extrajudicial
custody,
control and

55 A prisoner when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is other-

¹ These words were inserted by s 2 (1) of the Prisons (Amendment) Act 1910 (13 of 1910)

² This proviso was substituted by s 2 (2) *ibid*

(Chapter VII—Miscellaneous)

wise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison employment of prisoners.

56 Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector General with the sanction of the Local Government so confine them Confinement in irons

57 (1) Prisoners under sentence of transportation may, subject to any rules made under section 60, be confined in fetters for the first three months after admission to prison Confinement of prisoners under sentence of transportation in irons

(2) Should the Superintendent consider it necessary either for the safe custody of the prisoner himself or for any other reason that fetters should be retained on any such prisoner for more than three months he shall apply to the Inspector General for sanction to their retention for the period for which he considers their retention necessary and the Inspector General may sanction such retention accordingly

58 No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent Prisoners not to be ironed by Jailer except under necessity

59 The Governor General in Council may for any part of British India, and each Local Government with the previous sanction of the Governor General in Council may for the territories under its administration make rules consistent with this Act— Power to make rules

- (1) defining the acts which shall constitute prison offences
- (2) determining the classification of prison offences into serious and minor offences
- (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison offences or classes thereof,
- (4) defining the circumstances in which acts constituting both a prison offence and an offence under the Indian Penal Code may or may not be dealt with as a prison offence
- (5) for the award of merits and the shortening of sentences

¹ For rules by the Governor General in Council under this section see Genl R & O Vol III p 90 for rules by different Local Governments see different local Rules and Orders

(Chapter XII—Miscellaneous)

- (6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape,
- (7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released,
- (8) regulating the transfer from one part of British India to another of prisoners whose term of transportation or imprisonment is about to expire, and,
- (9) generally, for carrying into effect the purposes of this Act

Power of
Local
Government
to make
rules.

¹60 The Local Government may, subject to the control of the Governor General in Council, make rules consistent with this Act—

- (a) for the classification of prisons, and description and construction of wards, cells and other places of detention;
- (b) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons,
- (c) for the government of prisons and for the appointment, guidance, control, punishment and dismissal of all officers appointed under this Act
- (d) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own costs,
- (e) for the employment, instruction and control of convicts within or without prisons,
- (f) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited,
- (g) for classifying and prescribing the forms of labour and regulating the periods of rest from labour,
- (h) for regulating the disposal of the proceeds of the employment of prisoner,
- (i) for regulating the confinement in fetters of prisoners sentenced to transportation,
- (j) for the classification and the separation of prisoners,
- (k) for regulating the confinement of convicted criminal prisoners under section 28,
- (l) for the preparation and maintenance of history-tickets,
- (m) for the selection and appointment of prisoners as officers of prisons,
- (n) for rewards for good conduct,

¹ For rules made under this section see different Local Rules and Orders

(Chapter XII — Miscellaneous The Schedule)

- (e) for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire,
- (p) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons,
- (q) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends,
- (r) for the appointment and guidance of visitors of prisons,
- (s) for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement as pointed under section 541 of the ¹ Code of Criminal Procedure 1882, and to the officers employed, and the prisoners confined, therein, and,
- (t) generally in regard to the admission, custody, employment, dieting, treatment and release of prisoners and for other purposes consistent with this Act

61 Copies of rules under sections 59 and 60 so far as they affect the government of prisons shall be exhibited both in English and in the Vernacular, in some place to which all persons employed within a prison have access Exhibition of copies of rules.

62 All or any of the powers² and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the Local Government may appoint in this behalf either by name or by his official designation Exercise of powers of Superintendent and Medical Officer

THE SCHEDULE

ENACTMENTS REPEALED

(See section 2)

Year	No	Title or short title	Extent of repeal
1	2	3	4
<i>Acts of the Governor General in Council</i>			
1857	VIII	A. Act for the better control of the jails within the Presidency of Bombay	So much as has not been repealed
1859	XXVI	Prisons Act 1850	So much as has not been repealed

¹ See now the Code of Criminal Procedure 1898 (Act 5 of 1898)

² For notification on empowering certain officers in Burma to perform the duties of a Superintendent of a jail during his absence see Bur Gazette 1908 Pt I p 131

(The Schedule.)

THE SCHEDULE—contd.

Year	No	Title or short title	Extent of repeal.
1	2	3	4
<i>Acts of the Governor General in Council—contd.</i>			
1874	XV	Law-Local Extent Act, 1874	So much of Part (2) of the Third Schedule as relates to Act VIII of 1856
1878	XIV	An Act to assimilate certain powers of the Local Government of the North-Western Provinces and Oudh	Section 2
1881	XII	Repealing and Amending Act, 1881	So much of the Second Schedule as relates to Acts VIII of 1856 and XXVI of 1870
<i>Acts of the Governor of Fort St. George in Council.</i>			
1869	V	Madras Jails Act, 1869	So much as has not been repealed.
1882	VII	Madras Jails Act Amendment Act, 1882	The whole
1889	II	An Act to amend the Madras Jails Act, 1869	The whole
<i>Acts of the Governor of Bombay in Council.</i>			
1874	II	An Act for the regulation of Jails in the City and Presidency of Bombay and the enforcement of discipline therein	So much as has not been repealed except sections 9 to 16 (both inclusive) as amended by Bombay Act II of 1882
1882	IV	An Act to amend Bombay Act II of 1874	Section 3.
1885	IV	An Act to amend the Law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code	The whole
1887	I	An Act to further amend Bombay Act II of 1874	The whole

¹ U. P. Code.² The entry relating to the Upper Burma Laws Act, 1886 (20 of 1886), was repealed by the Burma Laws Act, 1893 (13 of 1893), Bur. Code³ Bom. Code

(The Schedule)

1894: Act XIII.]

Amending (Army)

THE SCHEDULE—concl'd

Year	No.	Title or short title	Extent of repeal
1	2	3	4

Acts of the Lieutenant-Governor of Bengal in Council

1864	II	An Act for the regulation of jails and the enforcement of discipline therein	So much as has not been repealed.
1866	V	An Act to amend Act II of 1864 passed by the Lieutenant Governor of Bengal in Council and to extend the provisions thereof to the local rev Jail	So much as has not been repealed

Regulations made under the Statute 33 Victoria, Chapter 3

1872	III	Sentinel Parwana Settlement Regulation	So much of the Schedule (as amended by Regulation III of 1880) as relates to Bengal Acts II of 1864 and V of 1866
1874	IX	Arakan Hill District Laws Regulation 1874	So much as relates to Act XXVI of 1870
1875	II	Assam Prison Regulation 187	Twelve
1880	I	British Baluchistan Laws Regulation 1880	So much as relates to Act XXVI of 1870

ACT No. XIII OF 1894^a

[12th October, 1894.]

An Act to amend certain enactments relating to the Army

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing It is hereby enacted as follows —

1. (1) This Act may be called the * * * Amending (Army) Act, Title and
1894, and commence
ment

^a Ben. Code^b Bur. Code^c Bal. Code

^d For Statement of Objects and Reasons see Gazette of India 1894 Pt. V p. 134, for Report of the Select Committee see *ibid* p. 159 and for Proceedings in Council, see *ibid*, Pt. VI, pp. 227-233 and 239

^e The words "Repealing and" were repealed by the Repealing and Amending Act 1903 (1 of 1903)

(The Schedule.)

THE SCHEDULE—contd

Year	No	Title or short title	Extent of repeal
I	2	3	4
<i>Acts of the Governor General in Council—contd.</i>			
1874	XV	Laws Local Patent Act, 1874	So much of Part (b) of the Third Schedule as relates to Act VIII of 1856
1878	XIV	An Act to assimilate certain powers of the Local Government of the North-Western Provinces and Oudh	Section 2
1891	XII	Repealing and Amending Act, 1891	So much of the Second Schedule as relates to Acts VIII of 1856 and XXVI of 1870
<i>Acts of the Governor of Fort St George in Council.</i>			
1809	V	Madras Jails Act, 1809	So much as has not been repealed.
1882	VII	Madras Jails Act Amendment Act, 1882	The whole
1880	II	An Act to amend the Madras Jails Act, 1860	The whole
<i>Acts of the Governor of Bombay in Council</i>			
1874	II	An Act for the regulation of Jails in the City and Presidency of Bombay, and the enforcement of discipline therein	So much as has not been repealed except sections 9 to 16 (both inclusive) as amended by Bombay Act II of 1882
1882	IV	An Act to amend Bombay Act II of 1874	Section 3
1883	IV	An Act to amend the Law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code	The whole
1887	I	An Act to further amend Bombay Act II of 1874	The whole

¹ U. P. Code² The entry relating to the Upper Burma Laws Act, 1886 (20 of 1886), was repealed by the Burma Laws Act, 1893 (13 of 1893), Bur. Code³ Bom. Code

THE SCHEDULE—*continued*

Year	No.	Title of the Act	Remarks
1	2	3	4

Acts of the Lieutenant-Governor of Bengal in Council

1861	II	An Act for the regulation of public houses and the sale of spirits in the same	Repealed by Act No. 1 of 1862
1862	V	An Act to amend Act II of 1861 passed by the Lieutenant-Governor of Bengal in Council, and to extend the provisions thereof to the District of Calcutta	Repealed by Act No. 1 of 1862

Regulations made under the Statute 33 Victoria Chapter 1

1872	III	Sonthal Parganas Settlement Regulation	So much of the Regulation as amended by Regulation III of 1880 (as related to Bengal Acts II of 1861 and V of 1862)
1874	IX	Arakan Hill District Laws Regulation 1874	So much as related to Act XXXI of 1870
1875	II	Assam Prison Regulation 1875	Twelve
1876	I	British Baluchistan Laws Regulation 1876	So much as related to Act XXXI of 1870

ACT No. XIII of 1894⁴

[12th October, 1894.]

An Act to amend certain enactments relating to the Army

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing, It is hereby enacted as follows—

1. (1) This Act may be called the *“Amending (Army) Act, 1894, and* Title and commencement

¹ Ben. Code² Bur. Code³ Bal. Code⁴ For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 134, for Report of the Select Committee see *ibid.*, p. 159 and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 227, 233 and 239⁵ The words “Repealing and” were repealed by the Repealing and Amending Act, 1903 (1 of 1903)

(2) It shall come into force on such date¹ as the Governor General in Council may, by notification in the Gazette of India fix in that behalf

Amendment
of enact-
ments

2. * * *

(2) The enactments specified in the second schedule are hereby modified to the extent and in the manner mentioned in the third column thereof

THE FIRST SCHEDULE

ENACTMENT REPEALED

(Rep, Act 1 of 1903)

THE SECOND SCHEDULE

ENACTMENTS AMENDED

Number and year	Title or subject	Amendments
1	2	3
<i>Act of the Governor General in Council</i>		
* * * *	* * *	* * *
<i>Regulations of the Madras Code</i>		
* * * *	* * *	* * *
* VIII of 1817	Sepoy Mutinies	In the title for on the military establishment of the Presidency of Fort St George read in the Madras Command In section 2, clause first, for on the Military establishment under the Presidency of Fort St George read in the Madras Command

¹ The 1st April, 1895, see Notification No 1019, dated 2nd November, 1894, Genl R and O, Vol III

² Sub-section (1) was repealed by Act 1 of 1903

³ The entry relating to Act 11 of 1877 was repealed by the Indian Lunacy Act, 1912 (4 of 1912)

⁴ The entry relating to Regulation 7 of 1808 was repealed by s 8 of the Special Laws Repeal Act 1922 (4 of 1922)

⁵ Mad Code

ACT No. I of 1895.¹

[4th January, 1895.]

An Act to amend the Presidency Small Cause Courts Act, 1882

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882. It is hereby enacted as follows:—

1. (1) This Act may be called the Presidency Small Cause Courts Act, 1895, and

Title and
commence-
ment.

(2) It shall come into force on the first day of April, 1895

2. In section 6 of the Presidency Small Cause Courts Act, 1882, hereinafter referred to as "the said Act," after the words "Code of Civil Procedure" the following shall be added, namely:—

Amendment
of section 6
Act XV,
1882

"and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Practitioners Act, 1879"

3. (1) For the proviso to the first paragraph of section 7 of the said Act the following shall be substituted, namely:—

Amendment
of section 7,
Act XV,
1882

"Provided that no person shall be appointed to be a Judge of such Court, or be authorized to exercise the powers of a Judge of such Court, unless he is—

- (a) an advocate of a High Court of Judicature established under the Indian High Courts Act, 1861, or
- (b) a vakil or attorney of any such High Court, or
- (c) a Judge of a Court of Civil Judicature of not less than five years' standing

and that not less than one-third of the persons so appointed, including the Chief Judge, shall be advocates of one of the said High Courts"

* * * * *

4. [Insertion of new section after section 8, Act XV, 1882.] *Rep by the Repealing and Amending Act, 1903 (I of 1903).*

For the purpose of the above, see Gazette of India, 1893, Pt V, p 2, *ibid*, 1894, Pt V, p 103 and for Proceedings 4 and 76, *ibid*, 1894, Pt VI, pp 2 and

now been repealed by the Government of

Madras Act, 1910

¹ Sub-section (2) was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

Substitution
of new sec-
tion for sec-
tion 9, Act
XI, 1882,
and tempo-
rary continu-
ance of
existing
procedure
and practice
Procedure
and practice
of Small
Cause Court

5 For section 9 of the said Act the following shall be substituted, namely —

“ 9 (1) The High Court may from time to time, by rules having the force of law,—

(a) prescribe the procedure to be followed and the practice to be observed by the Small Cause Court either in super-session of or in addition to any provisions which were prescribed with respect to the procedure or practice of the Small Cause Court on or before the thirty first day of December 1894, in or under this Act or any other enactment for the time being in force, and

(b) cancel or vary any such rule or rules

‘ Rules made under this section may provide among other matters, for the exercise by one or more of the Judges of the Small Cause Court of any powers conferred on the Small Cause Court by this Act or any other enactment for the time being in force

“ (2) The law, and any rules and declarations made, or purporting to be made, thereunder, with respect to procedure or practice, in force or treated as in force in the Small Cause Court on the thirty-first day of December, 1894, shall be in force, unless and until cancelled or varied by rules made by the High Court under this section ”

Addition to
section 14
Act XI,
1882

6 To section 14 of the said Act the following shall be added namely —

“ *Explanation* —For the purposes of this section an application for possession under section 41 shall be deemed to be a suit ”

Addition to
section 18
Act XI,
1882

7. To section 18 of the said Act the following proviso shall be added immediately before the first *Explanation*, namely —

“ Provided that where the cause of action has arisen wholly within the local limits aforesaid, and the Court refuses to give leave for the institution of the suit, it shall record in writing its reasons for such refusal ’

Addition to
section 18
Act XI,
1882

8 After section 18 of the said Act the following shall be added, namely —

Plaintiff may
abandon suit
against de-

“ 18A The Small Cause Court may allow a plaintiff at or before the first hearing of a suit in which a joint and several liability is alleged on

a cause of action arising either wholly or in part within the local limits of the jurisdiction of the Court to abandon the suit against any defendant who does not reside or carry on business or personally work for gain within such local limits, and to sue for a decree against such defendants only as do so reside carry on business or personally work for gain "

9 To section 19 of the said Act the following shall be added, namely —

Addition to section 19 Act XV, 1882

‘ 19A Whenever the Court finds that for want of jurisdiction it cannot finally determine the question at issue in the suit it may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the question. When the Court so returns a plaint it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it may think just and the Court shall for the purposes of the Indian Limitation Act 1877 be deemed to have been unable to entertain the suit by reason of defect of jurisdiction. When a plaint so returned is afterwards presented to a High Court credit shall be given to the plaintiff for the amount of the court fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are credited to the Government

Return of plaint

10 In section 21 of the said Act after the words ‘ or value thereof ’ the words “ and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees ” shall be inserted

Amendment of section 21 Act XV, 1882

11 In section 22 of the said Act for the words “ two thousand ” the words “ one thousand ” shall be substituted

Amendment of section 22, Act XV 1882

12 [*Repeal of Act VI 1882 section 23 and second schedule*] *Repeal by the Repealing and Amending Act 1914 (10 of 1914)*

13 For Chapter VI of the said Act the following shall be substituted namely —

Substitution of new Chapter for Chapter VI Act XV 1882

‘ CHAPTER VI

NEW TRIALS AND APPEALS

‘ 17 Save as otherwise provided by this Chapter or by any other enactment for the time being in force every decree and order of the Small Cause Court in a suit shall be final and conclusive

General finality of decrees and orders of Small Cause Court

¹ See now rule 10 Order VII in the first schedule to the Civil Procedure Code 1908 (Act 5 of 1908)

² See now Act 9 of 1908

New trial of
contested
cases

" 38 Where a suit has been contested, the Small Cause Court may, on the application of either party, made within eight days from the date of the decree or order in the suit (not being a decree passed under section 22 of the Code of Civil Procedure), order a new trial to be held or alter set aside or reverse the decree or order upon such terms as it thinks reasonable and may in the meantime stay the proceedings

' *Explanation*—Every suit shall be deemed to be contested in which the decree is made otherwise than by consent of or in default of appearance by the defendant

Removal of
certain causes
into High
Court

" 39 (1) In any suit instituted in a Small Cause Court in which the amount or value of the subject matter exceeds the sum of one thousand rupees the defendant or any one of the defendants may, before the day fixed by the summons for the appearance of the defendant or within eight days after the service of the summons on him, whichever period shall last expire, apply *ex parte* on an affidavit setting forth the facts on which he relies for his defence to a Judge of the High Court for an order removing the cause into the High Court

(2) Unless the Judge is of opinion that the application has been made solely for the purpose of delay the applicant shall be entitled to such order as of right but it shall be lawful for the Judge if he shall think fit in and by such order to require the applicant to give security to a reasonable amount to be specified in the order for the payment of any costs which may become payable by him to the plaintiff in respect of the said suit and such Judge may also if he shall think fit, declare that the removal directed by such order shall be conditional upon the completion of such security within a reasonable time to be prescribed in the order

" (3) If the applicant fail or neglect to complete the required security (if any) within the prescribed time (if any), the said order shall be discharged and the suit shall proceed in the Small Cause Court as if such order had never been made

" (4) If the plaintiff in any case which has been removed under this section into the High Court has abandoned a portion of his claim in order to be able to bring the suit within the jurisdiction of a Small Cause Court he shall be permitted to revive the portion of his claim so abandoned

Rules with
respect to
suits removed
under the
last foregoing
section.

" 40 (1) When a suit has been removed into the High Court under the last foregoing section it shall be heard and disposed of by such Court in the exercise of its original jurisdiction, and the said Court shall have all the same powers and jurisdiction in respect thereof as if it had been originally instituted in such Court

"(2) In every suit so removed as aforesaid the affidavit filed under section 39, sub-section (1), shall be treated as a written statement of the defendant tendered under section 110 of the Code of Civil Procedure unless the Court shall otherwise order

"(3) In every suit so removed as aforesaid credit shall be given to the plaintiff for the amount of the court fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are payable to the Government "

ACT No III of 1895 *

[*5th February 1895*]

An Act to amend the Indian Penal Code, * * *

WHEREAS it is expedient to amend the Indian Penal Code * * *,
It is hereby enacted as follows —

* * *

1 For section 182 of the Indian Penal Code the following shall be substituted, namely —

' 182 Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him or

Substitution of new section for section 182, Act XLV, 1860
False information with intent to cause public servant to use his lawful power to the injury of another person.

* See now rule 1 Order VIII in the first schedule to Act 5 of 1908

* Short title "The Indian Criminal Law Amendment Act 1895" See the Indian Short Titles Act, 1897 (14 of 1897)

ns see Gazette of India 1894 Pt V p 20
ce *ibid*, 1895 Pt V p 19 and for Proceed
p 151 *ibid* 1895 Pt VI pp 37 and 116

¹⁰ This Act is in force in Upper Burma (except the Shan States) in so far as it amends Act 45 of 1860 That Act as amended by Act 4 and the First Schedule to the Bu

Durs) See Gazette of India 1896 Pt 1 p 302

* The words and figures "Act VI of 1864 and the Indian Post-office Act, 1866" in the title and preamble were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

* The heading "Indian Penal Code" was repealed by the Repealing and Amending Act 1914 (10 of 1914)

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

• Illustrations

' (a) if informs a Magistrate that Z, a police officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

(b) A falsely informs a public servant to place knowing such information to be false consequence of the information will be a severe annoyance to Z. A has committed the offence.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants but knows it to be likely that in consequence of this information the Police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.

Add on of
section to
Chapter VII,
Act XLV,
1860

2 To Chapter VII of the said Code the following shall be added

melv —

Prohibition
of fictitious
stamps

" 263A (1) W hoever—

(a) males knowingly utters deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

(b) has in his possession without lawful excuse any fictitious stamp, or

(c) makes or without lawful excuse has in his possession any die, plate instrument or materials for making any fictitious stamp

shall be punished with fine which may extend to two hundred rupees

" (2) Any such stamp, die plate instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

“(3) In this section ‘fictitious stamp’ means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation whether on paper or otherwise of any stamp issued by Government for that purpose.”

"(f) In this section and also in sections 255 to 263, both inclusive the word 'Government' when used in connection with or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person

or persons authorised by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country."

3. For section 294 of the said Code the following shall be substituted, namely —

Substitution of new section for section 294, Act XLV, 1860

"294 Whoever, to the annoyance of others

Obscene acts and songs

(a) does any obscene act in any public place or

(b) sings, recites or utters any obscene song, ballad or words in or near any public place

shall be punished with imprisonment of either description for a term which may extend to three months or with fine or with both."

4. After section 477 of the said Code the following shall be added namely —

Addition of new section after section 477, Act XLV, 1860

"477A Whoever, being a clerk, officer or servant or employed or acting in the capacity of a clerk, officer or servant, wilfully and with intent to defraud destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer or has been received by him for or on behalf of his employer or wilfully and with intent to defraud makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in any such book, paper, writing, valuable security or account shall be punished with imprisonment of either description for a term which may extend to seven years or with fine, or with both

Falsification of accounts

Explanation —It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud or any particular day on which the offence was committed."

5 [Substitution of new sections for sections 2, 3 and 4 of Act II of 1864] *Rep. by the Whipping Act 1900 (4 of 1900)*

6 [Addition of explanation to section 5 of Act II of 1864] *Rep. by the Whipping Act 1900 (5 of 1900) s. 4*

7 [Addition of new section after section 65 of Act II of 1864] *Rep. by the Indian Post Office Act 1898 (6 of 1898)*

ACT No. VIII of 1895.¹

[1st March, 1895.]

An Act to amend Act V of 1861 (*an Act for the Regulation of Police*).

WHEREAS it is expedient to amend Act V of 1861 (*an Act for the Regulation of Police*); It is hereby enacted as follows:—

1. In section 1 of the said Act the following shall be inserted between the interpretations of the words "general police-district" and the word "property," namely:—

"The words 'District Superintendent' and 'District Superintendent of Police' shall include any Assistant District Superintendent or other person appointed by general or special order of the Local Government to perform all or any of the duties of a District Superintendent of Police under this Act in any district"

2. In section 7 of the said Act, in lieu of the words beginning "or fine any police-officer" down to the end of the section, the following shall be substituted, namely:—

"or may award any one or more of the following punishments to any police-officer who shall discharge his duty in a careless or negligent manner or who by any act of his own shall render himself unfit for the discharge thereof, namely:—

(a) fine to any amount not exceeding one month's pay;

¹ Short title, "The Police Act (1861) Amendment Act, 1895," see the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 166; for Report of the Select Committee, see *ibid*, 1895, Pt. V, p. 35, and for Proceedings in Council, see *ibid*, 1894, Pt. VI, p. 242, *ibid*, 1895, Pt. VI, pp. 71, 140 and 166.

This Act is in force in Upper Burma (except the Shan States) as being part

"... .."

"... .." (14 of 1874), see Gazette of India,

Ss 15, 15A, 16, 30, 30A, 31 and 32 of the principal Act as amended by this Act, have been extended by notification under s 5 of the Scheduled Districts Act, 1874 (14 of 1874), to the Scheduled Districts in Ganjam and Vizagapatam, see Gazette of India, 1893, Pt. I, p. 872

Act 3 of 1895 has in like manner been extended to the Parganas by the Sonthal O. Code, Vol. I, principal Act 5 of 1861 Code

Addition to interpretation-clause, section 1, Act V, 1861.

Amendment of section 7, Act V, 1861, respecting minor punishments

- (b) confinement to quarters for a term not exceeding fifteen days with or without punishment drill, extra guard, fatigue or other duty
- (c) deprivation of good conduct pay,
- (d) removal from any office of distinction or special emolument "

3 For the second paragraph of section 8 of the said Act beginning with the words " Such certificate shall cease to have effect " and ending with the words " officer empowered to receive the same," the following shall be substituted namely —

Amendment of section 8 Act V 1861 respecting certificates and suspension

" Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police officer, and on his ceasing to be such an officer shall be forthwith surrendered by him to any officer empowered to receive the same

" A police-officer shall not by reason of being suspended from office cease to be a police officer During the term of such suspension the powers, functions and privileges vested in him as a police officer shall be in abeyance, but he shall continue subject to the same responsibilities discipline and penalties and to the same authorities as if he had not been suspended "

4 For section 15 of the said Act the following shall be substituted, namely —

Substitution of new section for section 15 Act V 1861

15 (1) It shall be lawful for the Local Government by proclamation to be notified in the official Gazette and in such other manner as the Local Government shall direct to declare that any area subject to its authority has been found to be in a disturbed or dangerous state or that from the conduct of the inhabitants of such area or of any class or section of them it is expedient to increase the number of police

Quartering of additional police in disturbed or dangerous districts

" 2) It shall thereupon be lawful for the Inspector General of Police or other officer authorized by the Local Government in this behalf with the sanction of the Local Government to employ any police force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid

" (3) Subject to the provisions of sub section (5) of this section the cost of such additional police force shall be borne by the inhabitants of such area described in the proclamation

" (4) The Magistrate of the district after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are as aforesaid liable to bear the same and who shall not have been exempted under the next succeeding sub section Such apportionment shall be

made according to the Magistrate's judgment of the respective merits within such area of such inhabitants

"(5) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost

"(6) Every proclamation issued under sub section (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the Local Government may in each case, think fit to direct

Explanation —For the purposes of this section 'inhabitants' shall include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents direct from riyats or occupiers in such area notwithstanding that they do not actually reside therein "

5 After section 15 of the said Act the following shall be inserted namely —

15 (1) If in any area in regard to which any proclamation notified under the last preceding section is in force death or grievous hurt or loss of or damage to property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them it shall be lawful for any person, being an inhabitant of such area who claims to have suffered injury from such misconduct to make within one month from the date of the injury or such shorter period as may be prescribed an application for compensation to the Magistrate of the district or of the sub division of a district within which such area is situated

"(2) It shall thereupon be lawful for the Magistrate of the district with the sanction of the Local Government after such enquiry as he may deem necessary, and whether any additional police force has or has not been quartered in such area under the last preceding section to—

- (a) declare the persons to whom injury has been caused by or has ensued from such misconduct
- (b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them and
- (c) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub section

Added on of
new section
after sect 15
of Act 1895

Award of
compensation
to sufferers
from murder
or person
interest
in land

Provided that the Magistrate shall not make any declaration or assessment under this sub-section unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury

(3) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation

(4) Every declaration or assessment made or order passed by the Magistrate of the district under sub-section (2) shall be subject to revision by the Commissioner of the Division or the Local Government but save as aforesaid shall be final

(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section

(6) *Explanation*—In this section the word ‘inhabitants’ shall have the same meaning as in the last preceding section”

6 For section 16 of the said Act the following shall be substituted, namely —

New sect on substituted for section 16 Act V, 1861

“16 (1) All moneys payable under sections 13 14, 15 and 15A shall be recoverable by the Magistrate of the district in the manner provided by sections 396 and 387 of the ‘Code of Criminal Procedure 1882, for the recovery of fines, or by suit in any competent Court

Recovery of moneys payable under sections 13, 14 15 and 15A and disposal of same when recovered

“(2) All moneys paid or recovered under sections 13 14 and 15 shall be credited to a fund to be called ‘The General Police Fund,’ and shall be applied to the maintenance of the police force under such orders as the Local Government shall pass

“(3) All moneys paid or recovered under section 15A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section”

7 To section 26 of the said Act the following shall be added, namely —

Addition to section 26 Act V 1861

“(2) The provisions of section 525 of the ‘Code of Criminal Procedure, 1882, shall be applicable to property referred to in this section”

8 For section 27 of the said Act the following shall be substituted namely —

Substitution of new section for section 27, Act V 1861

27 (1) If no person shall within the period allowed claim such property, or the proceeds thereof if sold, it may, if not already sold under

Confiscation of property if no claimant appears

sub section (2) of the last preceding section, be sold under the orders of the Magistrate of the district

“(2) The sale proceeds of property sold under the preceding sub section and the proceeds of property sold under section 26 to which no claim has been established shall be at the disposal of Government ”

Addition to section 29 Act V, 1861 respecting overstay of leave.

9 In section 29 of the said Act, after the words “ for the period of two months ” the following shall be added, namely —

“ or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave ”

Substitution of new section for section 30 Act V 1861

10 For section 30 of the said Act the following shall be substituted, namely —

Regulation of public assemblies and processions, and licensing of the same

“ 30 (1) The District Superintendent or Assistant District Superintendent of Police may, on occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which such processions may pass

“(2) He may also on being satisfied that it is intended by any persons or class of persons to convene or collect on assembly in any such road, street or thoroughfare or to form a procession which would, in the judgment of the Magistrate of the district or of the sub division of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license

“(3) On such application being made he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section Provided that no fee shall be charged on the application for, or grant of, any such license

“(4) He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies ”

Addition of new section after section 30 Act V, 1861

11 After section 30 of the said Act the following section shall be inserted, namely —

Powers with regard to assemblies and processions and powers of licensing of the same

“ 30A (1) Any Magistrate or District Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any police-officer in charge of a station may stop any procession which violates the conditions of a license granted under the last foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse

(2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly "

12. In section 32 of the said Act, for the word "two," where it first occurs, the word "three," and in section 33 of the said Act, for the word "three," the word "four" shall be respectively substituted

Amendment of sections 32 and 33 Act V, 1861

13. In section 34 of the said Act after the words "or in any" the words "open place or" shall be inserted and for the expression "residents and passengers" the expression "residents or passengers" shall be substituted

Amendment of section 34 Act V, 1861

14. For sections 37, 38, 39 and 40 of the said Act the following section shall be substituted, namely —

Substitution of new section for sections 37, 38, 39 and 40, Act V, 1861.

" 37 The provisions of sections 64 to 70 both inclusive, of the Indian Penal Code and of sections 386 to 389, both inclusive, of the Code of Criminal Procedure 1892, with respect to fines, shall apply to penalties and fines imposed under this Act on conviction before a Magistrate

Recovery of penalties and fines imposed by Magistrates.

Provided that notwithstanding anything contained in section 65 of the first mentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days "

15. For section 46 of the said Act the following shall be substituted, namely —

Substitution of new section for section 46, Act V, 1861

" 46 (1) This Act shall not by its own operation take effect in any presidency, province or place. But the Governor General in Council, by an order to be published in the Gazette of India, may extend the whole or any part of this Act to any presidency, province or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such presidency, province or place

Scope of Act,

" (2) When the whole or any part of this Act shall have been so extended, the Local Government may from time to time, by notification in the official Gazette, make rules consistent with this Act—

(a) to regulate the procedure to be followed by Magistrates and Police-officers in the discharge of any duty imposed upon them by or under this Act,

¹ See now the Code of Criminal Procedure 1893 (Act 5 of 1893)

(b) to prescribe the time manner and conditions within and under which claims for compensation under section 15A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon, and,

(c) generally, for giving effect to the provisions of this Act

“(3) All rules made under this Act may from time to time be amended added to or cancelled by the Local Government ”

16 All orders heretofore issued by the Governor General in Council or the Local Government under section 46 of the said Act shall as far as may be be deemed to have been issued under the new section substituted for the same by this last foregoing section

ACT No X of 1895¹

[7th March, 1895]

An Act to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882 of interest out of capital during construction

WHEREAS it is expedient to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882, of interest out of capital during construction, It is hereby enacted as follows —

1 (1) This Act may be called the Indian Railway Companies Act, 1895

(2) It extends to the whole of British India, ”

” ” ” ” ” ” ” ” ”

2 In this Act unless there is something repugnant in the subject or context,—

(1) “ railway ” means a railway as defined in section 3, clause (f), of the Indian Railway Act, 1890

IX of

¹ For Statement of Objects and Reasons see Gazette of India 1895, Pt V, p 25, and for Proceedings in Council, see *ibid*, 1895, Pt VI, pp 123, 213, and 217

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1893 (13 of 1893) Bur Code

See now the consolidated Act 7 of 1913 which repealed Act 6 of 1892

The word “ and ” at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

Saving of
orders be
before 1891
under sec 11 of
46, Act V
1891

This and
section

Definition of

- (2) 'the railway' means the railway in relation to the construction of which interest out of capital is permitted to be paid as hereinafter provided; and
- (3) 'Railway Company' means a Company registered under the Indian Companies Act 1882 and formed for the purpose of making and working or making or working a railway in India whether alone or in conjunction with other purposes.

3. A Railway Company may pay interest on its paid up share capital out of capital for the period and subject to the conditions and restriction in this section mentioned and may charge the same to capital as part of the cost of construction of the railway. — Payment of interest out of capital

- (1) Such interest shall be paid only for such period as shall be determined by the Governor General in Council, and such period shall in no case extend beyond the close of the half-year next after the half year during which the railway shall be actually completed and opened for traffic.
- (2) No such payment shall be made unless the same is authorised by the Company's memorandum of association or by a special resolution of the Company.
- (3) No such payment whether authorised by the Company's memorandum of association or by special resolution as aforesaid shall be made without the previous sanction of the Governor General in Council.
- (4) The amount so paid out of capital by way of interest, in respect of any period shall in no case exceed a sum which shall, together with the net earnings of the railway during such period make up the rate of four per cent per annum.
- (5) No such payment of interest shall be made until such Railway Company has satisfied the Governor General in Council that two thirds at least of its share capital in respect whereof interest is to be so paid, has been actually issued and accepted, and is held by shareholders who, or whose representatives, are legally liable for the same.
- (6) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear.
- (7) The payment of such interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid.

¹ See now the consolidated Act 7 of 1913 which repealed Act 6 of 1895.

Provisions of
section 5
applicable to
additional
share capital
for raised
share

4. A railway in course of construction and intended to be made or worked by a Railway Company in addition to or by way of extension of any railway owned or worked by such Company, shall be deemed to be the railway of such Company for the purposes of this Act, and all the provisions of the last preceding section shall apply to such railway and to the share capital issued for the purpose of its construction.

Notice to
prospective
and other
documents

5. When a Railway Company has power to pay interest under this Act, notice to that effect shall be given in every prospectus, advertisement or other document inviting subscriptions for shares therein, and in every certificate of such shares.

Accounts

6. When any interest has been paid by a Railway Company under this Act, the annual or other accounts of such Company shall show the amount on which and the rate at which, interest has been so paid.

Construction
of borrowing
power

7. If by any memorandum of association, articles of association or other document any power of borrowing money is conferred on a Railway Company, or on its Directors, with or without the sanction of any meeting, and if such power of borrowing is limited to an amount bearing any proportion to the capital of such Company, the amount of capital applied or to be applied in payment of interest under this Act shall, for the purpose of ascertaining the extent of such power of borrowing, be deducted from the capital of such Company.

ACT No XV of 1895.¹

[10 October, 1895.]

An Act to explain the Transfer of Property Act, 1882 so far as relates to grants from the Crown, and to remove certain doubts as to the powers of the Crown in relation to such grants.

WHEREAS doubts have arisen as to the extent and operation of the Transfer of Property Act, 1882, and as to the power of the Crown to impose limitations and restrictions upon grants and other transfers of land made by it or under its authority, and it is expedient to remove such doubts It is hereby enacted as follows:—

This and
extent

1. (1) This Act may be called the Crown Grants Act, 1895.

¹ For Statement of Objects and Reasons see Gazette of India, 1895, Pt. V, p. 169 and for Proceedings in Council see *ibid.* Pt. VI, pp. 323 and 355.

This Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1896 (13 of 1896) Bur. Code; in British Baluchistan by section 3 of the British Baluchistan Laws Regulation 1913 (2 of 1913), see Bal. Code.

(2) It extends to the whole of British India; ^{1a}

2. Nothing in the Transfer of Property Act, 1882, contained shall apply or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of Her Majesty the Queen Empress, her heirs or successors, or by or on behalf of the Secretary of State for India in Council to, or in favour of, any person whomsoever, but every such grant and transfer shall be construed and take effect as if the said Act had not been passed.

3 All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment of the Legislature to the contrary notwithstanding

Transfer of Property Act, 1882, not to apply to Crown grants.

Crown grants to take effect according to their tenor

M F No VI of 1896 ²

[27th February, 1896.]

An Act to amend the Indian Penal Code.

WHEREAS it is expedient to amend the Indian Penal Code It is hereby enacted as follows—

1. 7) For the second paragraph of section 230 of the said Code the following shall be substituted namely —

‘ Queen’s coin is metal stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency or of any Government in the Queen’s dominions in order to be used as money and metal which has been so stamped and issued shall continue to be the Queen’s coin for the purposes

Substitution of new paragraph for paragraph 2 of section 230 of Code

The word “ and ” at the end of sub-section (2), and sub-section (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

Short title ‘ The Indian Penal Code Amendment Act, 1896 ’ see the Indian Short Titles Act 1897 (14 of 1897)

For Statement of Objects and Reasons, see Gazette of India 1895, Pt V p 157, for Report of the Select Committee see *ibid*, 1896, Pt V, p 133 and for Proceedings in Council, see *ibid*, 1895, Pt VI, p 320, and *ibid*, 1896, Pt VI, pp 294 and 10)

As being part of Act 45 of 1860, it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1893 (13 of 1893), Bur Code, for the same reason it is in force in British Baluchistan, see Bal Code

It is in force in tracts in the Chin Hills to which the Chin Hills Regulation, 1896 (5 of 1896) applies, and in 15 of 1900 which is included in the

It is
ganas
Pargan

rganas, by the Sonthal Parganas amended by the Sonthal), s 3 B & O Code, Vol I

of this Chapter, notwithstanding that it may have ceased to be used as money "

(2) To the illustrations appended to the said section the following shall be added, namely —

" (c) The 'Farukhabad rupee,' which was formerly used as money under the authority of the Government of India, is Queen's coin, although it is no longer so used "

Act No VIII of 1896¹

[5th March, 1896]

An Act to provide for the establishment of bonded warehouses at places other than customs ports, and to afford facilities for the bonding of salt in such warehouses

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses, It is hereby enacted as follows. —

Title and construction

1 (1) This Act may be called the Inland Bonded Warehouses Act, 1896

(2) It shall be read with and taken as part of, the Sea Customs Act, VIII 1878,²

* * * * *

Extent

2. Sections 5 to 7, both inclusive, of this Act shall extend only to such parts of British India as the Governor General in Council may from time to time, by notification in the Gazette of India, direct in this behalf

Inland Bonded Warehouses

Repeal.

3 (1) The Inland Bonded Warehouses Act, 1887, is hereby repealed XXI

(2) The reference to that Act in section 3, clause (7), of the Cotton Duties Act, 1896, shall be read as if it were made to this Act II of

¹ For Statement of Objects and Reasons, see Gazette of India, 1895, Pt V, p 54, for Report of the Select Committee, see *ibid* 1896, Pt V, p 145, and for Proceedings in Council, see *ibid*, 1895, Pt VI, p 238, and *ibid*, 1896, Pt VI, pp 2, 104 and 114

² The word "and" at the end of sub-section (2), and sub section (3) were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

³ Ss 5 to 7 have been extended to the territories administered by the Government of Bengal, see Gazette of India, 1897, Pt I, p 161

(Inland Bonded Warehouses Salt Time-Bonds)

4 (1) Notwithstanding anything contained in the Sea Customs Act 1878, the Chief Customs authority may, from time to time, with the previous sanction of the Local Government, appoint a public or license or private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license

Inland bonded warehouses and law applicable thereto

(2) In reference to such a place and a warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs duties on goods brought in bond from one customs port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse as the case may be, appointed or licensed thereat under that Act

(3) All rules applicable to such warehouses and to the weighing and removal thereto of salt, and in force at the commencement of this Act shall remain so applicable until they shall be duly superseded or altered

• • • • •

Salt Time-Bonds

5 Notwithstanding anything contained in the Sea Customs Act 1878, or in section 4 of this Act the Chief Customs authority may permit salt removed from ship board or from a warehouse appointed or licensed under the Sea Customs Act 1878 to be conveyed under a bond securing the subsequent payment of the duty leviable in respect of the salt so removed and in accordance with such rules as may be prescribed in this behalf by the Local Government to a warehouse appointed or licensed for that purpose by the Chief Customs authority

Conveyance of salt to inland bonded warehouses under bonds

6 Every bond executed in accordance with the provisions of the last preceding section shall be in the form hereto annexed or when such form is inapplicable or insufficient in such other form as is from time to time prescribed by the Chief Customs authority

Form of bond

Provided that the time allowed by such bond for the payment of the duty leviable on the salt included therein shall not exceed the time within which it may reasonably be expected that the whole of such salt shall have passed into consumption and shall in no case exceed six months

Provided also that the Chief Customs authority may at any time require the duty to be paid to the extent to which the salt may have been delivered from the warehouse

¹ Sub section (4) was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

Power to
make rules.

- 7 The Local Government may ¹ * * * * * make rules consistent with the provisions of this Act, to regulate—
- (1) the appointment or licensing of warehouses under section 5,
 - (2) the inspection by Government officers of such warehouses,
 - (3) the safe custody of salt in transit under the provisions of the said section
 - (4) the removal of salt from a warehouse appointed or licensed under the said section
 - (5) the nature of the security to be required from a person executing a bond in accordance with the provisions of the said section and the time and place of payment of the sum recoverable under such bond and
 - (6) generally such other matters as may be deemed necessary to secure the safety of the public revenue

Saving

- 8 Nothing in section 5 or section 6 shall prevent the removal of salt in any manner in which it may for the time being be lawfully removable under section 4

FORM OF BOND

(*See section 6*)

No 189

We A B,

now of

, and C D

, of the same place are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council for which payment we jointly and severally bind ourselves and our legal representatives

(Date)

(Signed)

The above bounden having applied to the officer in charge of the Custom house at for and obtained permission to lodge in a warehouse appointed or licensed under the Inland Bonded Warehouses Act 1896 and situated at , for a period of months, the following goods that is to say, mound of salt imported by sea from on board of the ship and entered in the Custom-house books as No of the Register of goods imported by sea,

¹ The words "with the previous sanction of the Governor General in Council" were omitted by Schedule Part I of the Decentralization Act 1914 (4 of 1914)

² For rules made by the Government of Bengal under this section, see Ben R & O

(Form of Bond)

1896: Act IX.]

Railways

The condition of this bond is that

If the said _____ or their legal representatives shall observe all the rules prescribed under the said Inland Bonded Warehouses Act, 1896, to be observed by the owners of goods warehoused and persons obtaining permission to warehouse goods under the provisions thereof

And if the said _____ or their legal representatives shall pay to the officer in charge of the Custom house at the port of _____ or to the Collector of _____ all dues including customs duties or other lawful charges which shall be demandable on the said salt or on account of penalties incurred in respect thereto within _____ from the date of this bond, together with interest on every such sum at the rate of six per cent per annum from the date of demand thereof being made in writing by the said officer in charge of the Custom house

And if within the term so fixed or such further period (if any) as may be granted by the Chief Customs authority for the payment thereof the full amount of all customs duties and other lawful charges, penalties and interest demandable as aforesaid shall have been first paid on the whole of the said salt

This obligation shall be void

Otherwise and on breach or failure in the performance of any part of this condition the same shall be in force

(Date)

(Signed) _____)

ACT No IX of 1896¹

[5th March 1896]

An Act to amend the Indian Railways Act, 1890

WHEREAS it is expedient to amend the Indian Railways Act, 1890, it is hereby enacted as follows —

1 In section 7 sub-section (1) clause (a) of the said Act after the word "roads" in the second place in which it occurs the words 'lines of railway' shall be added

Amendment
of section 7,
Act IX,
1890

¹ Short title 'The Indian Railways Act (1890) Amendment Act, 1896,' see the

1896 Pt V p 120

it is in force in
1898 (13 of 1898)

..

Bur Code

It has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation 1872 (3 of 1872) s 3 as amended by the Sonthal Parganas Justice and Laws Regulation 1899 (3 of 1899) s 3 B & O Code Vol 1

Legal Practitioners

[1896: Act XI]

Amendment
of section 10,
sub section
(2) Act IX,
1890

2 In section 10 sub-section (2), of the said Act, for the latter part of the sub-section after the words "so far as may be" the following shall be substituted, namely —

"with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation"

Amendment
of section 59
sub section
(3) Act IX
1890

3. In section 59, sub-section (3), of the said Act, for 'sub-section (1)' 'sub-section (2)' shall be substituted

Amendment
of section 73
sub section
(1), Act IX
1890

4. In section 73 sub-section (1), of the said Act, before the word 'camels' the word 'mules' and before the word "sheep" the word 'donkeys,' shall be added

5. [Repeal of section 51, Act IX, 1890] *Rep by the Repealing and Amending Act, 1914 (10 of 1914)*

Amendment
of section
114, Act IX,
1890

6 In section 114 of the said Act, for the words "the return half" the words "any half," and for the words "the return journey" the words "the journey" shall be substituted

Amendment
of section
136, sub sec
tion (1), Act
IX, 1890

7 In section 136 sub section (1) of the said Act, after the word "Court" the words "or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution" shall be added

ACT No XI of 1896¹

[13th March, 1896]

An Act to amend the Legal Practitioners Act, 1879

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879; It is hereby enacted as follows —

Addition to
Section 3 Act
XVIII 1879

1. To section 3 of the said Act the following shall be added, namely —

"Tout"

" 'Tout' means a person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration

¹ Short title "The Legal Practitioners Act, 1896," see the Indian Short Titles Act, 1897 (14 of 1897)

For Statement of Objects and Reasons, see Gazette of India, 1895, Pt V, p 172, for Report of the Select Committee, see *ibid*, 1896, Pt V, p 149, and for Proceedings in Council, see *ibid*, 1895 Pt VI, p 329, and *ibid*, 1896, Pt VI, pp 3, 114 and 123

moving from such practitioner, or proposes to a legal practitioner to procure his employment in any legal business in consideration of such remuneration "

2. For section 14 of the said Act the following shall be substituted, namely —

Substitution of new section for section 13, Act XVIII, 1879.

13. The High Court may also after such inquiry as it thinks fit, suspend or dismiss any Pleader or Mukhtar holding a certificate as aforesaid—

Suspension and dismissal of Pleaders and Mukhtars guilty of unprofessional conduct

(a) who takes instructions in any case except from the party on whose behalf he is retained or some person who is the recognised agent of such party within the meaning of the Code of Civil Procedure, or some servant, relative or friend, authorised by the party to give such instructions, or

(b) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

(c) who tender, gives or consents to the retention out of any fee paid or payable to him for his services of any gratification for procuring or having procured the employment in any legal business of himself or any other Pleader or Mukhtar, or

(d) who, directly or indirectly, procures or attempts to procure the employment of himself as such Pleader or Mukhtar through, or by the intervention of any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or

(e) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36 or

(f) for any other reasonable cause "

3. For section 22 of the said Act the following shall be substituted, namely —

Substitution of new section for section 22, Act XVIII, 1879

22 The Chief Controlling Revenue-authority may also, after such enquiry as it thinks fit, suspend or dismiss any Revenue Agent holding a certificate as aforesaid—

Suspension and dismissal of Revenue Agents guilty of unprofessional conduct

(a) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

- (b) who tender gives or consent to the retention out of any fee paid or payable to him for his services of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue Agent or
- (c) who directly or indirectly procure or attempts to procure the employment of himself as such Revenue Agent through or by the intervention of any person to whom any remuneration for obtaining such employment has been given by him or agreed or promised to be so given or
- (d) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36 or
- (e) for any other reasonable cause.

4 For section 36 of the said Act the following shall be substituted namely —

“ 36 (1) Every High Court District Judge Sessions Judge District Magistrate and Presidency Magistrate every Revenue officer not being below the rank of a Collector of a District and the Chief Judge of every Presidency Small Cause Court (each as regards their or his own Court and the Courts if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction by evidence of general repute or otherwise habitually to act as touts and may from time to time alter and amend such lists

(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion

(3) A copy of every such list shall be kept hung up in every Court to which the same relates

(4) The Court or Judge may, by general or special order exclude from the precincts of the Court any person whose name is included in any such list

(5) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of section 13 clause (e) and section 22, clause (d) ”

Substitution
of new
section for
sect on 36
Act XVIII
1879

Power to
frame and
publish lists
of touts.

Act No 1 of 1897.¹

[14th January, 1897.]

An Act to amend Act XXXVII of 1850 (for regulating Inquiries into the behaviour of Public Servants).

WHEREAS it is expedient to amend Act XXXVII of 1850 (for regulating Inquiries into the behaviour of Public Servants); It is hereby enacted as follows —

1. The said Act XXXVII of 1850 may be called the Public Servants (Inquiries) Act, 1850.

Title of Act
XXXVII,
1850
2. In the preamble to the said Act, after the word "removable" the words "from their appointments" shall be inserted, and for the words "the East India Company" the word "India" shall be substituted

Amendment
of preamble
to Act
XXXVII,
1850
3. In section 2 of the said Act for the words "the East India Company, not removable from his office without the sanction of the same Government," the words "the Government, not removable from his appointment without the sanction of the Government," shall be substituted

Amendment
of section
2, Act
XXXVII,
1850.
4. For section 23 of the said Act the following section shall be substituted namely —

Substitution
of new sec-
tion for sec-
tion 23, Act
XXXVII,
1850
- " 23 The powers of the Government under this Act may in all cases be exercised by the Governor General in Council and when the person accused can be removed from his appointment by the Local Government, those powers may also be exercised by the Local Government "

Powers of
Government
under this
Act by
whom exer-
cisable

Short title "The Public Servants (Inquiries) Act (1850) Amendment Act, 1897," see the Indian Short Titles Act 1897 (14 of 1897)

For Statement of Objects and Reasons, see Gazette of India, 1896 Pt V, p 239, for Report of the Select Committee see *ibid*, 1897, Pt V, p 6, and for Proceedings in Council see *ibid*, 1896 Pt VI, pp 232 and 251, *ibid*, 1897, Pt VI, pp 2 and 9

As being part of Act 27 of 1850 it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1893 (13 of 1893), Bur Code

when
of the
cept
Pt I,
Pt 1,
1893,

ACT No III or 1897¹

[4th February 1897]

An Act to provide for the better prevention of the spread of
Dangerous Epidemic Disease

WHEREAS it is expedient to provide for the better prevention of the spread of dangerous epidemic disease, It is hereby enacted as follows —

Short title
and extent

1 (1) This Act may be called the Epidemic Diseases Act, 1897

(2) It extends to the whole of British India (inclusive of * * * British Baluchistan the Santhal Parganas and the Pargana of Spiti),
* *

* * * * *

Power to
take special
measures and
prescribe
regulations
as to danger-
ous epidemic
disease

2⁴ (1) When at any time the Governor General in Council is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease the Governor General in Council, if he thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose may take or require or empower any person to take such measures and by public notice prescribe such temporary regulations to be observed by the public or by any person or class of persons as he shall deem necessary to prevent the outbreak of such disease or the spread thereof and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed

(2) In particular and without prejudice to the generality of the foregoing provisions the Governor General in Council may take measures and prescribe regulations for—

- (a) the inspection of any ship or vessel leaving⁵ or arriving at, any port in British India and such detention thereof or of any person intending to sail therein or arriving thereby as may be necessary, and

¹ For Statement of Objects and Reasons, see Gazette of India 1897 Pt V p 21, for Report of the Select Committee see *ibid*, p 23 and for Proceedings in Council, see *ibid* Pt VI pp 18 and 21

The Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act 1899 (13 of 1899) Bur Code

Santhal Parganas by the Santhal Parganas s 3 as amended by the Santhal Parganas 1899 s 3 B & O Code Vol I and in Regulation, 1913 (3 of 1913) see B & O

Code Vol I

⁴ The words 'Upper Burma' were repealed by the Burma Laws Act 1898 (13 of 1898) see fifth schedule Bur Code

⁵ The word and at the end of sub-section (1) and sub-section (2) were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

⁶ For notifications issued under this section see different local Rules and Orders

⁷ For special provision as to inspection of passengers sailing for ports in the Red Sea see s 30 of the Native Passenger Ships Act, 1887 (10 of 1887)

(b) the inspection of persons travelling by railway or otherwise and the segregation in hospital temporary accommodation or otherwise of persons suspected by the inspecting officer of being infected with any such disease

[2A. When any Local Government is satisfied that the Province or any part thereof is visited by, or threatened with an outbreak of any dangerous epidemic disease and that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof such Local Government may exercise all or any of the powers conferred by this Act on the Governor General in Council]

Concurrent Powers of Local Governments

3. Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code

4. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act

Protection to persons acting under Act

ACT No IV of 1897¹

[4th February 1897]

An Act to provide for certain matters relating to Fisheries in British India

WHEREAS it is expedient to provide for certain matters relating to fisheries in British India It is hereby enacted as follows —

- 1 (1) This Act may be called the Indian Fisheries Act 1897
- (2) It extends to the whole of British India except Burma

Title and extent

¹ Sub section (3) was repealed by s 2 and Sch I of the Devolution Act, 1920 (38 of 1920)

² This section was inserted by s 2 and Sch I of the Devolution Act, 1920 (38 of 1920) Vol. p 101, Proceed 597 p 21 the British

905 (Bur

Act 3 of 1905), but the word "and" at the end of sub section (2), and sub section (3) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

Act to be read as supplemental to other Fisheries Laws

2 Subject to the provisions of sections 8 and 10 of the 'General Clauses Act, 1887' this Act shall be read as supplemental to any other enactment² for the time being in force relating to fisheries in any part of British India except Burma

Definitions

3 In this Act unless there is anything repugnant in the subject or context,—

(1) "fish" includes shell fish

(2) "fixed engine" means any net, cage, trap or other contrivance for taking fish fixed in the soil or made stationary in any other way and

(3) "private water" means water which is the exclusive property of any person or in which any person has for the time being an exclusive right of fishery whether as owner lessee or in any other capacity

Explanation—Water shall not cease to be "private water" within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein

Destruction of fish by explosives in inland waters and on coasts

4 (1) If any person uses any dynamite or other explosive substance in any water with intent thereby to catch or destroy any of the fish that may be therein he shall be punishable with imprisonment for a term which may extend to two months or with fine which may extend to two hundred rupees

(2) In sub section (1) the word "water" includes the sea within a distance of one marine league of the sea coast and an offence committed under that sub section in such sea may be tried punished and in all respects dealt with as if it had been committed on the land abutting on such coast

Destruction of fish by poisoning of waters

5 (1) If any person puts any poison lime or noxious material into any water with intent thereby to catch or destroy any fish he shall be punishable with imprisonment for a term which may extend to two months or with fine which may extend to two hundred rupees

(2) The Local Government may, by notification in the official Gazette suspend the operation of this section in any specified area and may in like manner modify or cancel any such notification

¹ See now ss 4 and 26 of the General Clauses Act 1897 (10 of 1897)

² For law relating to Fisheries in—

(1) Assam see the Assam Land and Revenue Regulation 1886 (1 of 1886) ss 16 and 16a

(2) Bengal and Assam (Private Fisheries) see the Private Fisheries Protection Act 1889 (Ben Act 2 of 1889)

(3) Central Provinces see the Central Provinces Land and Revenue Act 1881 (18 of 1881) C P Code

(4) Nilgiris District as to acclimatised fish see the Nilgiris Game and Fish Preservation Act 1879 (Mad Act 2 of 1879) Mad Code Vol I

6 (1) The Local Government may make rules¹ for the purposes hereinafter in this section mentioned and may by notification in the official Gazette apply all or any of such rules to such waters, not being private waters as the Local Government may specify in the said notification. Protection of fish in selected waters by rules of Local Government.

2 The Local Government may also by a like notification, apply such rules or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein

3) Such rules may prohibit or regulate all or any of the following matters: that is to say—

- (a) the erection and use of fixed engines,
- (b) the construction of weirs, and
- c) the dimension and kind of the nets to be used and the modes of using them

4) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years

(5) In making any rule under this section the Local Government may—

- a) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and when the breach is a continuing breach with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in, and

(b) provide for—

- i) the seizure forfeiture and removal of fixed engines, erected or used or nets used in contravention of the rule, and
- ii) the forfeiture of any fish taken by means of any such fixed engine or net

(6) The power to make rules under this section is subject to the condition that they shall be made after previous publication

7 (1) Any police officer or other person² specially empowered by the Local Government in this behalf either by name or as holding any office, for the time being may without an order from a Magistrate and without warrant arrest any person committing in his view any offence punishable under section 4 or 5 or under any rule under section 6— Arrest without warrant for offences under this Act

(a) if the name and address of the person are unknown to him and

¹ For rules under s. 6, see different local Rules and Orders

² For notification under this section in Madras see Fort St. George Gazette 1903 Pt. I, p. 19

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained.

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

ACT No V of 1897¹

[25th February, 1897]

An Act * * * * *² to amend and facilitate the
citation of certain * * * enactments

* * * * *

* * * Whereas it is * * * expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act,

And whereas it is also expedient to facilitate the citation of the enactments specified in the third schedule to this Act

It is hereby enacted as follows —

Title

1. (1) This Act may be called the * * * Amending Act, 1897 * *

* * * * *

Enactments
amended

2. * * * * *

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof

3 [Savings] Rep by the Repealing and Amending Act 1903 (1 of 1903)

¹ For Statement of Objects and Reasons see Gazette of India, 1897, Pt V, p 50, and for Proceedings in Council, see *ibid*, 1897, pp 41 and 44

² In the Title the words "to repeal certain obsolete enactments and" and the word "other" were repealed by the Repealing and Amending Act, 1903 (1 of 1903)

³ In the Preamble the repealing portion and the words "and" and "also" were repealed by the Repealing and Amending Act, 1903 (1 of 1903)

⁴ The words, "Repealing and" were repealed by the Repealing and Amending Act, 1903 (1 of 1903)

⁵ The word "and" at the end of sub-section (1) and sub-section (2) were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

⁶ Sub-section (1) of section 2 was repealed by Act 1 of 1903

4. Each of the enactments described in the first three columns of the third schedule may without prejudice to any other mode of citation be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof

Citation of certain enactments

THE FIRST SCHEDULE

[Rep. Act I of 1903]

THE SECOND SCHEDULE

Year	No.	Short title as at 1-1-1903	Author
1903	1	1	1

Part II -- Regulations of the Bengal Code

180	VI	Passage of Foreigners	In section 3 clause third for Governor General in Council in each place in which those rules are read Local Government
1812	VI	Removal of Foreign Immigrants	In section 11 clause second for to the Nizamut Adalat who will recommend to the Governor General in Council such abridgement of the prescribed punishment as they may judge proper read to the Local Government, and the Local Government shall pass such orders thereon as it may think fit For Governor General in Council (hereinafter) read Local Government
1893	VII	Loans to Government officers	In section 1 clause first for being members of the Indian Civil Service In section 6 and also in section 8, for Governor General in Council read Local Government In section 8, for Government read the Local Government

THE THIRD SCHEDULE—*contd*

1	2	3	4
Year	No.	Section	Short title

Part I—Local Acts of the Government in force in 1897—contd

1886	III	To amend the North India Forest Act 1885	The North India Forest Act Amendment Act 1886
1892	IV	To amend the Bengal Court of Wards Act 1879 Act IV (B.C.) of 1879	The Court of Wards Act (Bengal) Amendment Act 1892
1893	.	.	.

Part III—Regulations of the Bengal Government in Assam

1893	I	For re-enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March 1893	The Bengal Permanent Settlement Regulation 1893
	II	For amending the rules of Mal Adalat or Revenue Courts and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewans (Malat and panchayat) and providing for the conduct of the Board of Revenue and the Collectors	The Bengal Land Revenue Regulation 1793
	VIII	For re-enacting with modifications the rules for the Decennial Settlement of the public revenue payable from the lands of zamindars independent taluqdars and other actual proprietors of land in Bengal Belar and Orissa passed for those provinces respectively on the 18th September 1789 the 20th November 1789 and the 10th February 1790 and subsequent dates	The Bengal Decennial Settlement Regulation 1793

¹ The entry here omitted relates to the Assam Frontier Tracts Regulation, 1884 (III of 1884) which only affects Assam see Assam Code Vol I

THE THIRD SCHEDULE—*contd*

1	2	3	4
Year	No	Subject	Short title

Part III—Regulations of the Bengal Code in force in 1858—contd

1793	XI	For removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government	The Bengal Inheritance Regulation, 1793.
"	XXXXIII	For re-enacting, with modifications, such part of the rule passed on the 27th June 1787, as prohibits Covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to zamindars independent taluqdars or other actual proprietors of land or dependent taluqdars or farmers of landholding farms immediately of Government or the under farmers or raiats of the several descriptions of proprietors and farmers of land above mentioned, or their respective surties	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1797
1799	X	To limit the interference of the Zila Court or Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate	The Bengal Wills and Intestacy Regulation, 1799
1800	X	For preventing the division of landed estates in the Jomai Mahals of the Zila of Midnapore and other Districts	The Bengal Inheritance Regulation, 1800

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year	No	Subject	Short title

Part III—Regulations of the Bengal Code in force in Assam—contd.

1806	XI	For facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories	The Bengal Troops Transport and Travellers Assistance Regulation, 1806
1812	VI	To empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated and in certain cases, to place and detain any such persons in safe custody, and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts	The Bengal Foreign Immigrants Regulation, 1812
1818	III	For the confinement of State Prisoners	The Bengal State Prisoners Regulation, 1818
1819	VIII	To declare the validity of certain tenures and to define the relative rights of zamindars and patni taluqdars also to establish a process for the sale of such taluqs in satisfaction of the zamindars' demand of rent	The Bengal Patni Taluqs Regulation, 1819

¹ The entry relating to Regulation 10 of 1804 was repealed by the Special Laws Repeal Act, 1922 (4 of 1922)

THE THIRD SCHEDULE—*concl'd.*

1	2	3	4
Year	No	Subject	Short title

Part III—Regulations of the Bengal Code in force in Assam—concl'd

1820	I	For providing that all sales of certain taluqa made answerable by sale for arrears by the zamindar's rent shall be conducted in the mode provided by Regulation V III, 1819, for the sales therein described	The Bengal Patni Taluqa Regulation, 1820
1823	VII	For prohibiting loans by Covenanted Civil Servants from persons subject to their official authority and influence	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823
1825	VI	For rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories	The Bengal Troops Transport Regulation, 1825.
"	XI	For declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea	The Bengal Alluvion and Diluvion Regulation, 1825
1827	III	For modifying and amending the rules in force relative to the law officers and ministerial native officers of the Courts of Judicature, who may be guilty of corruption or extortion	The Bengal Corruption and Extortion Regulation, 1827
"	V	For modifying the rules at present in force for the management of estates under attachments by orders of the Courts of Justice in certain cases.	The Bengal Attached Estates Management Regulation, 1827
1829	XVII	For declaring the practice of Sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts	The Bengal Sati Regulation, 1829

ACT No VI of 1897 ¹

[4th March, 1897]

An Act to amend the Negotiable Instruments Act, 1881

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881 It is hereby enacted as follows —

1. (1) This Act may be called the Negotiable Instruments Act Amendment Act 1897, ²

• • • • •

2 To section 72 of the said Act the following words shall be prefixed, namely " Subject to the provisions of section 84 "

Amendment
of section 72
Act XXVI
of 1881

3 For section 84 of the said Act the following section shall be substituted namely —

Substitution
of new sec-
tion for sec-
tion 84 Act
XXVI of
1881

" 84 (1) Where a cheque is not presented for payment within a reasonable time of its issue and the drawer or person on whose account it is drawn had the right at the time when presentment ought to have been made as between himself and the banker to have the cheque paid and suffers actual damage through the delay he is discharged to the extent of such damage that is to say to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid

When cheque
not duly
presented
and drawer
damaged
thereby

(2) In determining what is a reasonable time regard shall be had to the nature of the instrument the usage of trade and of bankers and the facts of the particular case

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor in lieu of such drawer or person of such banker to the extent of such discharge and entitled to recover the amount from him

Illustrations

(a) A draws a cheque for Rs 1 000 and when the cheque ought to be presented has funds at the bank to meet it The bank fails before the

¹ For Statement of Objects and Reasons see Gazette of India 1896 Pt V p 36 for Report of the Select Committee see *ibid* 1897 Pt V p 51 and for Proceedings in Council see *ibid* 1896 Pt VI pp 79 and 250 and *ibid* 1897 pp 39 and 54

cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at Umbilly on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque."

THE REFORMATORY SCHOOLS ACT, 1897

CONTENTS

I—Preliminary

SECTIONS

- 1 Title and extent
- 2 Repeal of Act
- 3 Section 399 of Act X of 1882 repealed on date fixed by a notification under section 1, sub-section (3)
- 4 Definitions

II—Reformatory Schools

- 5 Power to establish and discontinue Reformatory Schools
- 6 Requisites of schools
- 7 Inspection of Reformatory Schools
- 8 Power of Courts to direct youthful offenders to be sent to Reformatory Schools
- 9 Procedure where Magistrate is not empowered to pass an order under section 8
- 10 Power of Magistrates to direct boys under fifteen sentenced to imprisonment to be sent to Reformatory Schools
- 11 Preliminary enquiry and findings as to age of youthful offender
- 12 Government to determine Reformatory School to which such offenders shall be sent
- 13 Persons found to be over eighteen years not to be detained in Reformatory Schools
- 14 Discharge or removal by order of Government

SECTIONS

- 15 Power to Governor General in Council to direct use of Reformatories in one province for reception of youthful offenders from another
- 16 Certain orders not subject to appeal or revision

III — Management of Reformatory Schools

- 17 Appointment of Superintendent and Committee of Visitors or Board of Management
- 18 Superintendent may license youthful offenders to employers of labour
- 19 Cancellation of license
- 20 Determination of license
- 21 Cancellation of license in case of ill treatment
- 22 Superintendent to be deemed guardian of youthful offenders
Power to apprentice youthful offender
- 23 Duties of Committee of Visitors
- 24 Powers of Board of Management
- 25 Power to appoint Trustees or other Managers of a school to be a Board of Management
- 26 Power of Board to make rules

IV — Offences in relation to Reformatory Schools

- 27 Penalty for introduction or removal or supply of prohibited articles and communication with youthful offenders
- 28 Penalty for abetting escape of youthful offenders
- 29 Arrest of escaped youthful offender

V — Miscellaneous

- 30 [*Repealed*]
- 31 Power to deal in other ways with youthful offenders including girls
- 32 Procedure when youthful offender under detention in a Reformatory School is again convicted and sentenced

(I—Preliminary)

ACT No VIII of 1897¹

[11th March, 1897]

An Act to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders

WHEREAS it is expedient to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders, It is hereby enacted as follows —

I—Preliminary

1. (1) This Act may be called the Reformatory Schools Act 1897. Title and extent.

(3) This section and section 2 shall extend to the whole of British India. The other sections shall extend in the first instance to the whole of British India except the territories for the time being administered by the Lieutenant Governor of the Punjab and the Chief Commissioner of Coorg, but either of the said Local Governments may at any time by notification in the local official Gazette extend these sections to their territories from such day as may be fixed in any such notification.

2. (1) The Reformatory Schools Act 1876 is hereby repealed.

Repeal of Act.

(2) But all proceedings taken orders passed officers appointed or authorised and rules made under the said Act shall as far as may be, be deemed to have been respectively passed appointed or authorised and made under this Act.

For Statement of Objects and Reasons see Gazette of India 1896 Pt V p 18 for Report of the Select Committee see ibid 1897 Pt VI p 25 and for Proceedings in Council see ibid 1897 Pt V pp 200 and 201 and ibid 1898 Pt VI p 41 and 63.

The Act has been declared in force in Upper Burma (except the Shan States) see the Burma Laws Act 1893 (13 of 1893) Bur Code, in the Arakan Hill District by Regulation 1 of 1910.

It has also been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation 18 of 1893 as amended by the Sonthal Parganas Justice and Laws Regulation 1899 (3 of 1899) B & O Code Vol 1, and in the Angul District by the Angul Laws Regulation 1913 (3 of 1913), see B and O Code Vol 1.

It has also been declared in force in the Baluchistan by s 3 of the British Baluchistan Code 131 see Bal Code.

It has also been declared in force in the Punjab by s 3 of the Punjab Code 131 see Punjab Code.

This Act is to be deemed to be repealed in Bengal (in areas to be notified) by Bengal Act 2 of 1903 Ben Code.

The word "and" at the end of sub-section (1) and sub-section (2) were repealed by the Repealing and Amending Act 1914 (10 of 1914).

Sections 3 to 32 (both inclusive) have been extended to the Punjab from 1st October 1903 see Punjab Gazette Extraordinary dated 2nd October 1903 to Coorg from 1st May, 1903 see Coorg Dist Gazette 1903 Pt I p 26 and to the N.W.F.P. see Gazette of India 1910 Pt II, p 1101.

(I —Preliminary II —Reformatory Schools)

(3) Any enactment or document referring to the said Act shall as far as may be be construed to refer to this Act or to the corresponding portions thereof.

3 From the date fixed by any notification issued under section 1 sub section (3) section 399 of the Code of Criminal Procedure 1892 shall be repealed in the province to which the notification relates.

Section 399
of Act V of
1887 repealed
on date fixed
by a notifica-
tion under
section 1
sub section
(3)

4 In this Act, unless there is anything repugnant in the subject or ^(b) Definitions context —

(a) "youthful offender" means any boy who has been convicted of any offence punishable with transportation or imprisonment and who at the time of such conviction, was under the age of fifteen years

(b) "Inspector General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector General and

(c) "District Magistrate" shall include a Chief Presidency Magistrate

11—Reformatory Schools

5 " " " " the Local Government may—

(a)⁴ establish and maintain Reformatory Schools at such places as it may think fit.

(b) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules, consistent with this Act, as the Local Government may prescribe in this behalf,

(c) direct that any school so established or used shall 'cease to exist as a Reformatory School or to be used as such

6 Every school so established or used must provide—

(a) sufficient means of separating the inmates at night,

(b) proper sanitary arrangements, water supply, food clothing and bedding for the youthful offenders detained therein,

(c) the means of giving such youthful offenders industrial training;

(d) an infirmary or proper place for the reception of such youthful offenders when sick

Power to
establish and
discontinue
Reformatory
Schools

Requisites of schools

(II.—Reformatory Schools)

Inspection of
Reformatory
Schools

7 (1) Every school intended to be established or used as a Reformatory School shall, before being used as such be inspected by the Inspector General, and if he finds that the requirements of section 6 have been complied with, and that, in his opinion such school is fitted for the reception of such youthful offenders as may be sent there under this Act he shall certify to that effect, and such certificate shall be published in the local official Gazette, together with an order of the Local Government establishing the school as a Reformatory School or directing that it shall be used as such and the school shall thereupon be deemed to be a Reformatory School

(2) Every such school shall from time to time, and at least once in every year be visited by the said Inspector General who shall send to the Local Government a report on the condition of the school in such form as the Local Government may prescribe

Power of
Courts to
direct youth-
ful offenders
to be sent to
Reformatory
Schools

8 (1) Whenever any youthful offender is sentenced to transportation or imprisonment and is in the judgment of the Court by which he is sentenced a proper person to be an inmate of a Reformatory School, the Court may, subject to any rules made by the Local Government, direct¹ that instead of undergoing his sentence he shall be sent to such a school, and be there detained for a period which shall be not less than three or more than seven years

(2) The powers so conferred on the Court by this section shall be exercised only by (a) the High Court (b) a Court of Session, (c) a District Magistrate and (d) any Magistrate specially empowered by the Local Government in this behalf and may be exercised by such Courts whether the case comes before them originally or on appeal

(3) The Local Government may make rules for—

(a) defining what youthful offenders should be sent to Reformatory Schools having regard to the nature of their offences or other considerations and

(b) regulating the periods for which youthful offenders may be sent to such schools according to their ages or other considerations²

Procedure
where Magis-
trate is not
empowered

9 (1) When any Magistrate not empowered to pass an order under the last foregoing section is of opinion that a youthful offender convicted

¹ For instance of the publication of such a certificate, see O P R and O
² For under the Commissioner in Sindh
³ For powers s p 1193
⁴ For Gazette sent see Punjab
Gazette urma, see Burma

¹ For rules regulating the period for which youthful offenders may be sent to Reformatories, see different local Rules and Orders

(11—Reformatory Schools)

by him is a proper person to be an inmate of a Reformatory School, he may without passing sentence, record such opinion and submit his proceedings and forward the youthful offender to the District Magistrate to whom he is subordinate

to pass an order under section 8

(2) The Magistrate to whom the proceedings are so submitted may make such further inquiry (if any) as he may think fit and pass such sentence and order for the detention in a Reformatory School of the youthful offender, or otherwise as he might have passed if such youthful offender had been originally tried by him

10 The officer in charge of a prison in which a youthful offender is confined in execution of a sentence of imprisonment may bring him, if he has not then attained the age of fifteen years before the District Magistrate within whose jurisdiction such prison is situate, and such Magistrate may if such youthful offender appears to be a proper person to be an inmate of a Reformatory School direct that instead of undergoing the residue of his sentence he shall be sent to a Reformatory School and there detained for a period which shall be subject to the same limitations as are prescribed by or under section 8 with reference to the period of detention therein authorised

Power of Magistrates to direct by order under fifteen sentenced imprisonment to be sent to Reformatory Schools.

11 (1) Before directing any youthful offender to be sent to a Reformatory School under section 8 section 9 or section 10 the Court or Magistrate shall inquire into the question of his age and, after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon stating his age as nearly as may be

Preliminary inquiry and finding as to age of youthful offender

(2) A similar inquiry shall be made and finding recorded by every Magistrate not empowered to pass an order under section 8 before submitting his proceedings and forwarding the youthful offender to the District Magistrate as required by section 9 sub section (1)

12 Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may, by general or special order appoint for the reception of youthful offenders so dealt with by such Court or Magistrate

Government to determine Reformatory School to which such offenders shall be sent.

Provided that if accommodation in a Reformatory School is not immediately available for such youthful offender he may be detained in the juvenile ward or such other suitable part of a prison as the Local Government may direct—

(a) until he can be sent to a Reformatory School or

(b) until the term of his original sentence expires

(II—Reformatory Schools)

Inspection of
Reformatory
Schools

7 (1) Every school intended to be established or used as a Reformatory School shall, before being used as such, be inspected by the Inspector General and if he finds that the requirements of section 6 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official Gazette together with an order of the Local Government establishing the school as a Reformatory School or directing that it shall be used as such, and the school shall thereupon be deemed to be a Reformatory School.

(2) Every such school shall from time to time and at least once in every year be visited by the said Inspector General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may prescribe.

Power of
Courts to
direct youth-
ful offenders
to be sent to
Reformatory
Schools

8 (1) Whenever any youthful offender is sentenced to transportation or imprisonment, and is in the judgment of the Court by which he is sentenced a proper person to be an inmate of a Reformatory School, the Court may, subject to any rules made by the Local Government, direct that instead of undergoing his sentence, he shall be sent to such a school and be there detained for a period which shall be not less than three or more than seven years.

(2) The powers so conferred on the Court by this section shall be exercised only by (a) the High Court, (b) a Court of Session, (c) a District Magistrate, and (d) any Magistrate specially empowered by the Local Government in this behalf, and may be exercised by such Courts whether the case comes before them originally or on appeal.

(3) The Local Government may make rules for—

- 4(a) defining what youthful offenders should be sent to Reformatory Schools, having regard to the nature of their offences or other considerations; and
- (b) regulating the periods for which youthful offenders may be sent to such schools according to their ages or other considerations.

Procedure
where Magis-
trate is not
empowered

9 (1) When any Magistrate not empowered to pass an order under the last foregoing section is of opinion that a youthful offender convicted

¹ For instance of the same kind as in the case of the Punjab Government.
² For delegate or under the section.

³ For instance powers see U. P. R. and O. Vol. I.

⁴ For rules made under this clause by the Punjab Government see Punjab Gazette Extraordinary dated 2nd October 1903 p. 3. Govt. of Burma see Burma Gazette 1909 Pt. I p. 697.

⁵ For rules regulating the period for which youthful offenders may be sent to Reformatories see different local Rules and Orders.

(11—Reformatory Schools)

by him is a proper person to be an inmate of a Reformatory School, he may, without passing sentence, record such opinion and submit his proceedings and forward the youthful offender to the District Magistrate to whom he is subordinate

to pass an order under section 8

(2) The Magistrate to whom the proceedings are so submitted may make such further inquiry (if any) as he may think fit and pass such sentence and order for the detention in a Reformatory School of the youthful offender, or otherwise as he might have passed if such youthful offender had been originally tried by him

10 The officer in charge of a prison in which a youthful offender is confined in execution of a sentence of imprisonment may bring him if he has not then attained the age of fifteen years before the District Magistrate within whose jurisdiction such prison is situate and such Magistrate may if such youthful offender appears to be a proper person to be an inmate of a Reformatory School direct that instead of under going the residue of his sentence he shall be sent to a Reformatory School and there detained for a period which shall be subject to the same limitations as are prescribed by or under section 8 with reference to the period of detention thereby authorised

Power of Magistrates to direct be under fifteen sentenced to imprisonment to be sent to Reformatory schools

11 (1) Before directing any youthful offender to be sent to a Reformatory School under section 8 section 9, or section 10 the Court or Magistrate shall inquire into the question of his age and, after taking such evidence (if any) as may be deemed necessary shall record a finding thereon stating his age as nearly as may be

Preliminary inquiry and finding as to age of youthful offender

(2) A similar inquiry shall be made and finding recorded by every Magistrate not empowered to pass an order under section 8 before submitting his proceedings and forwarding the youthful offender to the District Magistrate as required by section 9 sub section (1)

12 Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may by general or special order appoint for the reception of youthful offenders so de it with by such Court or Magistrate

Government to determine Reformatory School to which such offenders shall be sent.

Provided that if accommodation in a Reformatory School is not immediately available for such youthful offender, he may be detained in the juvenile ward or such other suitable part of a prison as the Local Government may direct—

(a) until he can be sent to a Reformatory School or

(b) until the term of his original sentence expires

(II—Reformatory Schools III—Management of Reformatory Schools)

whichever event may first happen Should the term of his original sentence first expire, he shall thereupon be released, but should he be sent to a Reformatory School, then the period of detention previously undergone shall be treated as detention in a Reformatory School

13 (1) If at any time after a youthful offender has been sent to a Reformatory School it appears to the Committee of Visitors or Board of Management, as the case may be, that the age of such youthful offender has been understated in the order for detention, and that he will attain the age of eighteen years before the expiration of the period for which he has been ordered to be detained they shall report the case for the orders of the Local Government

(2) No person shall be detained in a Reformatory School after he has been found by the Local Government to have attained the age of eighteen years

14. The Local Government may at any time order any youthful offender—

(a) to be discharged from a Reformatory School,

(b) to be removed from one Reformatory School to another such school situate within the territories subject to such Government Provided that the whole period of his detention in a Reformatory School shall not be increased by such removal

15 (1) The Governor General in Council may by a general or special order direct that any Reformatory School situated in one province shall be available for the reception of youthful offenders directed to be sent to any Reformatory School by any Court or Magistrate in any other province

(2) Any such order may also provide for the removal of the youthful offender, and the cost of his maintenance and may give any such further directions as may be necessary

16 Nothing contained in the Code of Criminal Procedure, 1882, shall be construed to authorise any Court or Magistrate to alter or reverse in appeal or revision any order passed with respect to the age of a youthful offender or the substitution of an order for detention in a Reformatory School for transportation or imprisonment

III—Management of Reformatory Schools

17 (1) For the control and management of every Reformatory School, the Local Government shall appoint either (a) a Superintendent and a Committee of Visitors or (b) a Board of Management

¹ For notifications under this section see different local Rules and Orders

² See now the Code of Criminal Procedure 1898 (Act 6 of 1898)

³ For notification making such appointments see different local Rules and Orders

Persons found to be over eighteen years not to be detained in Reformatory Schools.

Discharge or removal by order of Government

Power to Governor General in Council to direct use of Reformatory in one province for reception of youthful offenders from another

Certain orders not subject to appeal or revision

Appointment of Superintendent and Committee of Visitors or Board of Management.

(III—Management of Reformatory Schools)

(2) Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be Natives of India

(3) The Local Government may suspend or remove any Superintendent or any Member of a Committee or Board so appointed

18 (1) Every Superintendent so appointed may, with the sanction of the Committee, by license under his hand, permit any youthful offender sent to a Reformatory School, who has attained the age of fourteen years to live under the charge of any trustworthy and respectable person named in the license, or any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him on the condition that the employer shall keep such youthful offender employed at some trade occupation or calling

Superintendent may license youthful offenders to employers of labour

(2) The license shall be in force for three months and no longer, but may, at any time and from time to time until the expiration of the period for which the youthful offender has been directed to be detained be renewed for three months at a time

19 The license shall be cancelled at the desire of the employer named in the license

Cancellation of license.

20 If during the term of the license the employer named therein dies or ceases from business or to employ labour or the period for which the youthful offender has been directed to be detained in the Reformatory School expires the license shall thereupon cease and determine

Determination of license.

21 If it appears to the Superintendent that the employer has ill treated the youthful offender or has not adequately provided for his lodging and maintenance the Superintendent may cancel the license

Cancellation of license in case of ill treatment.

22 (1) The Superintendent of a Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school within the meaning of Act No XIX of 1850 (*concerning the binding of apprentices*)

Superintendent to be deemed guardian of youthful offenders. Power to apprentice youthful offender

(2) If it appears to the Superintendent that any youthful offender licensed under section 18 has behaved well during one or more periods of his license the Superintendent may, with the sanction of the Committee apprentice him under the provisions of the said Act and on such apprenticeship the right to detain such youthful offender in a Reformatory School shall cease and the unexpired term (if any) of his sentence shall be cancelled

23 (1) Every Committee of Visitors appointed under section 17 for a Reformatory School shall at least once in every month,—

Duties of Committee of Visitors.

(a) visit the school, to hear complaints and see that the requirements of section 6 have been complied with, and that the management of the school is proper in all respects,

(III — Management of Reformatory Schools)

- (b) examine the punishment-book,
- (c) bring any special cases to the notice of the Inspector-General, and
- (d) see that no person is illegally detained in the school

(2) If any member of a Committee of Visitors so appointed fails or neglects during a period of six consecutive months to visit the school and assist in the discharge of the duties aforesaid he shall cease to be a member of such Committee

Powers of
Board of
Management

24 If in exercise of the power conferred by section 17 the Local Government appoints a Board of Management for any Reformatory School such Board shall have the powers and perform the functions of the Superintendent under sections 18 to 22 both inclusive and the house mentioned in section 18 may be under the hand of their chairman, and they shall be deemed to be the guardians of the youthful offenders detained in such school

Power to
appoint
Trustees or
other Man-
agers of a
school to be
a Board of
Management

25 The Local Government may declare any body of Trustees or Managers of a school who are willing to act in conformity with the rules referred to in section 5 clause (b) to be a Board of Management under this Act and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management

Power of
Board to
make rules

26 (1) With the previous sanction of the Local Government every Board of Management of a Reformatory School may from time to time make rules consistent with this Act—

- (i) to prescribe the articles which are to be deemed to be "prohibited articles" and
- (ii) to regulate—
 - (a) the conduct of business of the Board
 - (b)¹ the management of the school,
 - (c) the education and industrial training of youthful offenders
 - (d) visit² to and communication with youthful offenders
 - (e) the terms and conditions under which any articles declared by the Board to be "prohibited articles" may be introduced into or removed out of the school,
 - (f) the manner in which such articles are to be removed when introduced without due authority
 - (g) the conditions and limitations under which such articles may be supplied outside the school to any youthful offender under order of detention therein

¹ For rules in force in different provinces see different local Rules and Orders

(III — *Management of Reformatory Schools* IV — *Offences in relation to Reformatory Schools*)

- (h) the conditions on which the possession by any such youthful offender of such articles may be sanctioned,
- (i) the penalties to be imposed for the supply or possession of such articles when supplied or possessed without due authority,
- (j) the punishment of offences committed by youthful offenders and
- (k) the granting of licenses for the employment of youthful offenders

(2) In the absence of a Board of Management the Local Government may make¹ rules consistent with this Act to regulate for any Reformatory School the matters mentioned in any clause of sub section (1), other than clause (i) (a), and also the mode in which the Committee of Visitors shall conduct their business

IV — *Offences in relation to Reformatory Schools*

27. Whoever, contrary to any rule made under section 26, introduces or removes or attempts by any means whatever to introduce or remove into or from any Reformatory School, or supplies or attempts to supply outside the limits of any Reformatory School to any youthful offender under order of detention therein, any prohibited article

Penalty for introduction or removal or supply of prohibited articles and communication with youthful offenders

and every officer or person in charge of a Reformatory School who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any Reformatory School, to be possessed by any youthful offender detained therein or to be supplied to any such youthful offender outside its limits

and whoever, contrary to any such rule, communicates or attempts to communicate with any such youthful offender,

and whoever abets any offence made punishable under this section, shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both

28 Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such youthful offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding two hundred rupees, or with both

Penalty for abetting escape of youthful offender

¹ For rules made under this sub section see local Rules and Orders

(IV —Offences in relation to Reformatory Schools V —Miscellaneous)

Arrest of
escaped
youthful
offender

29 A Police-officer may, without orders from a Magistrate and without a warrant arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school or from his employer, and take him back to such school or to his employer

V —Miscellaneous

30 [Application of Act 15 of 1860 to youthful offenders detained in Reformatory Schools] Rep Act 3 of 1900

Power to
deal in other
ways with
youthful
offenders,
including
girls.

31 (1) Notwithstanding anything contained in this Act or in any other enactment for the time being in force, any Court may if it shall think fit instead of sentencing any youthful offender to transportation or imprisonment or directing him to be detained in a Reformatory School, order him to be—

(a) discharged after due admonition or

(b) delivered to his parent or to his guardian or nearest adult relative, or such parent guardian or relative executing a bond, with or without sureties as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months

(2) For the purposes of this section the term 'youthful offender' shall include a girl

(3) The powers conferred on the Court by this section shall be exercised only by Courts empowered by or under section 8

(4) When any youthful offender is convicted by a Court not empowered to act under this section and the Court is of opinion that the powers conferred by this section should be exercised in respect of such youthful offender it may record such opinion and submit the proceedings and forward the youthful offender to the District Magistrate to whom such Court is subordinate

(5) The District Magistrate to whom the proceedings are so submitted may thereupon make such order or pass such sentence as he might have made or passed if the case had originally been tried by him

Procedure
when youth-
ful offender
under deten-
tion in a
Reformatory
School is
again con-
victed and
sentenced.

32 When a youthful offender during his period of detention in a Reformatory School is again convicted by a Criminal Court the sentence of such Court shall commence at once notwithstanding anything to the contrary in section 397 of the ¹ Code of Criminal Procedure 1882 but the Court shall forthwith report the matter to the Local Government which shall have power to deal with the matter in any way in which it thinks fit

¹ See now the Code of Criminal Procedure 1893 (Act 5 of 1893)

THE GENERAL CLAUSES ACT, 1897

CONTENTS

Preliminary.

SECTIONS

- 1 Short title
- 2 [Repealed]

General Definitions

- 3 Definitions
- 4 Application of foregoing definitions to previous enactments

General Rules of Construction

- 5 Coming into operation of enactments
- 6 Effect of repeal
7. Revival of repealed enactments
- 8 Construction of references to repealed enactments
- 9 Commencement and termination of time
- 10 Computation of time
- 11 Measurement of distances
- 12 Duty to be taken *pro rata* in enactments
- 13 Gender and number
- 13A References to the Sovereign

Powers and Functionaries

- 14 Powers conferred on the Government to be exercisable from time to time
- 15 Power to appoint to include power to appoint *ex officio*
- 16 Power to appoint to include power to suspend or dismiss
- 17 Substitution of functionaries
- 18 Successors
- 19 Official chiefs and subordinates

Provisions as to Orders, Rules, etc , made under Enactments

- 20 Construction of orders, etc , issued under enactments
- 21 Power to make to include power to add to, amend, vary or rescind, orders, rules or bye laws
- 22 Making of rules or bye laws and issuing of orders between passing and commencement of enactment
- 23 Provisions applicable to making of rules or bye laws after previous publication
- 24 Continuation of orders etc issued under enactments repealed and re enacted

(Preliminary. General Definitions.)

Miscellaneous.

SECTIONS.

25. Recovery of fines.
26. Provision as to offences punishable under two or more enactments.
27. Meaning of service by post.
28. Citation of enactments.
29. Saving for previous enactments, rules and bye-laws.
30. Application of Act to Ordinances.
- 30A. Application of Act to Acts made by the Governor General.
31. Construction of references to Local Government of a Province.

THE SCHEDULE—ENACTMENTS REPEALED. (*Repealed.*)ACT No. X or 1897.¹

[11th March, 1897.]

An Act to consolidate and extend the General Clauses Acts, 1868 and 1887.

WHEREAS it is expedient to consolidate and extend the General Clauses Acts, 1868 and 1887; It is hereby enacted as follows:—

Preliminary.

Short title

1. (1) This Act may be called the General Clauses Act, 1897;²

2. [Repeal.] *Rep. by the Repealing and Amending Act, 1903 (1 of 1903).*

General Definitions.

Definitions.

3. In this Act, and in all Acts of the Governor General in Council and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

"Abet"

- (1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code:

AMURAH HILL DISTRICT
Parganas by the Son
amended by the Son
s 3, B & O Code,
Tracts Regulation, I
under s 3 of the An
and in the Pargana of Manpur, Reg. 2 of 1926, s 2.
It has been
christian Laws I
The word
pealed by the

3 of the British Balu
b-section (2) were re-

V, p 38;
n Council,
S. A. S. S.

(General Definitions)

- (2) ¹ "net," used with reference to an offence or a civil wrong, "Act shall include a series of nets, and words which refer to acts done extend also to illegal omissions
- (3) ² "affidavit" shall include affirmation and declaration in the 'Affidavit' case of persons by law allowed to affirm or declare instead of swearing
- ³[(3a) "Assam Act" shall mean an Act made by the Chief Com⁴ Assam Act⁵ missioner of Assam in Council under the Indian Councils Acts, 1861 to 1909] "[or the Government of India Act, 1915]
- (4) "barrister" shall mean a barrister of England or Ireland⁶ Barrister or a member of the Faculty of Advocates in Scotland
- ⁷[(5) "Bengal Act" shall mean, in the case of Acts passed prior⁸ Bengal Act⁹ to the 1st April, 1912, an Act made by the Lieutenant-Governor of Bengal in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909, and in the case of Acts passed after that date, an Act made by the Governor of the Presidency of Fort William in Bengal in Council under the Indian Councils Acts, 1861 to 1909,] "[or the Government of India Act, 1915]
- ¹⁰[(5a) "Bihar and Orissa Act" shall mean an Act made by the¹¹ Bihar and Orissa Act¹² Lieutenant Governor of Bihar and Orissa in Council under the Indian Councils Acts, 1861 to 1909,] "[or the Government of India Act, 1915]
- (6) "Bombay Act" shall mean an Act made by the Governor of¹³ Bombay Act¹⁴ Bombay in Council under "[the Indian Councils Act, 1861, or] the 'Indian Councils Acts, 1861 and 1892, "[or the

¹ Cf the Indian Penal Code (Act 45 of 1860), and the Madras General Clauses Act, 1891 (Mad Act 3 of 1891) Mad Code Vol II

² Cf the definitions of "Oath" and "Swear" in sub-sections (36) and (55), respectively, *infra*. As to affidavits in civil proceedings see Code of Civil Procedure (Act 5 of 1908), First Schedule, Order 19, as to criminal proceedings, see Code of Criminal Procedure, 1898 (Act 5 of 1898)

³ This definition was added by the Repealing and Amending Act 1914 (10 of 1914)

⁴ These words were added by the Repealing and Amending Act 1917 (24 of 1917)

⁵ This clause was substituted by the Repealing and Amending Act, 1914 (10 of 1914)

⁶ These words were inserted by the Repealing and Amending Act 1903 (1 of 1903), s 3

⁷ Coll Stats Vols I and II, respectively

⁸ These words were added by the Repealing and Amending Act 1914 (10 of 1914)

(General Definitions)

Indian Councils Acts 1861 to 1909] ¹[or the Government of India Act, 1915]

- "British India," (7) ² "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India
- "British possession," (8) ³ "British possession" shall mean any part of Her Majesty's dominions, exclusive of the United Kingdom, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession
- Burma Act [(8a) "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the "Indian Councils Acts, 1861 and 1892,"] ⁴[or the Indian Councils Acts, 1861 to 1909,] ¹[or the Government of India Act, 1915]
- "Central Provinces Act," [(8b) "Central Provinces Act" shall mean an Act made by the Chief Commissioner of the Central Provinces in Council under the Indian Councils Acts, 1861 to 1909,] ¹[or the Government of India Act, 1915]
- "Chapter" (9) "Chapter" shall mean a Chapter of the Act or Regulation in which the word occurs
- "Collector" (10) ⁵ "Collector" shall mean, in a Presidency-town, the Collector of Calcutta, Madras or Bombay, as the case may be, and elsewhere the chief officer in charge of the revenue administration of a district
- "Colony" (11) ⁶ "Colony" shall mean any part of Her Majesty's dominions, exclusive of the British Islands and of British India, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony

¹ These words were added by the Repealing and Amending Act, 1917 (24 of 1917)
² Of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (4), Coll. Stats., Vol. II. For definition of "India" see sub-sec. (27), *infra*
³ Of *ibid.*, s. 18 (2)

⁴ This clause was inserted by the Repealing and Amending Act, 1903 (1 of 1903), s. 3
⁵ Coll. Stats., Vols. I and II respectively
⁶ These words were added by the Repealing and Amending Act, 1914 (10 of 1914)

⁷ This clause was inserted by the Second Repealing and Amending Act, 1914 (17 of 1914)

⁸ Cf. the Bombay General Clauses Act 1904 (Bom. Act 1 of 1904) s. 3 (12), and the U. P. General Clauses Act 1887 (U. P. Act 1 of 1887), s. 2 (12), Bom. Code, Vol. IV, and the U. P. Code Vol. II respectively

⁹ Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 63) s. 18 (4) Coll. Stats., Vol. II

(General Definitions)

- (12) "commencement" used with reference to an Act or Regulation shall mean the day on which the Act or Regulation comes into force "Commencement"
- (13) "Commissioner" shall mean the chief officer in charge of the revenue administration of a division Commissioner
- (14) "consular officer" shall include consul general consul vice consul, consular agent, pro consul and any person for the time being authorized to perform the duties of consul general, consul, vice-consul or consular agent Consular officer
- (15) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction District Judge
- (16) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks or by more than one of those means which is intended to be used or which may be used, for the purpose of recording that matter Document."
- "[(16a) "Eastern Bengal and Assam Act" shall mean an Act made by the Lieutenant Governor of Eastern Bengal and Assam in Council under the Indian Councils Acts, 1861 and 1892, or the Indian Councils Acts, 1861 to 1909] Eastern Bengal and Assam Act"
- (17) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal, Madras or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid "Enactment"
- (18) "father," in the case of any one whose personal law permits adoption, shall include an adoptive father Father
- (19) "financial year" shall mean the year commencing on the first day of April Financial year
- (20) "a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not "Good faith."

of definition of "written,"

see also Vol. II

* This clause was inserted by the Repealing and Amending Act 1914 (10 of 1914) of the Interpretation Act 1889 (52 & 53 Vict. c. 63) s. 22 Coll. Stats.,

Vol. II

* See also Vol. II s. 61 s. 80 and the Sale of s. 52 of the Indian Penal Code

"good faith," see Gazette of

(General Definitions)

- "Government."
"Government of India."
- (21) "Government" or "the Government" shall include the Local Government as well as the Government of India
- (22) "Government of India" shall mean the Governor General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone, as regards the powers which may be lawfully exercised by them or him respectively,
- 20
- High Court.
- (24) "High Court," used with reference to civil proceedings, shall mean the highest Civil Court of appeal in the part of British India in which the Act or Regulation containing the expression operates
- Immoveable property
- (25) "immoveable property" shall include land benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth
- "Imprisonment."
- (26) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code
- India.
- (27) "India" shall mean British India together with any territories of any Native Prince or Chief under the suzerainty of Her Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India
- "Local authority"
- (28) "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund
- "Local Government."
- (29) "Local Government" shall mean the person authorized by law to administer executive government in the part of British India in which the Act or Regulation containing the expression operates, and shall include a Chief Commissioner

tra

Vol. 11

the Local Authorities Local Act 1914 (9 of 1914)

19 (18 of 1919)
Indian Regis

) Coll Stats,

British India namely —the
Punjab and Oudh the Punjab
Urdu in Council and the
Baluchistan Delhi and of
ner of the Andaman and
delegation certain powers

(General Definitions)

- (30) "Madras Act" shall mean an Act made by the Governor of Madras Fort St. George in Council under ¹ [the Indian Councils Act 1861 or] the ² Indian Councils Acts 1861 and 1892 ³ [or the Indian Councils Acts 1861 to 1909] ⁴ [for the Government of India Act 1915]
- (31) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force⁵ Magistrate.
- (32) "Master" used with reference to a ship shall mean any person (except a pilot or harbour master) having for the time being control or charge of the ship (of a ship)
- (33) "month" shall mean a month reckoned according to the British calendar Month.
- (34) "moveable property" shall mean property of every description except immovable property Moveable property
- (35) "North Western Provinces and Oudh Act" shall mean an Act made by the Lieutenant Governor of the North Western Provinces and Oudh in Council under ¹ [the Indian Councils Act 1861 or] ² the Indian Councils Acts 1861 and 1892 North Western Provinces and Oudh Act
- (36) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing Oath
- (37) "offence" shall mean any act or omission made punishable by any law for the time being in force Offence
- (38) "Part" shall mean a Part of the Act or Regulation in which the word occurs Part
- (39) "person" shall include any company or association or body of individuals whether incorporated or not Person.

¹ These words were inserted by the Repealing and Amending Act 1903 (1 of 1903)

s. 3

² Coll. Stats. Vol. II

³ These words were added by the Repealing and Amending Act 1914 (10 of 1914)

⁴ These words were added by the Repealing and Amending Act 1917 (24 of 1917)

⁵ The Code now in force is Act 5 of 1893

⁶ See s. 74^a of the Mercantile Shipping Act 1894 (57 & 58 Vict. c. 60) Coll. Stats. Vol. II

For a complete definition of the word "property" see s. 168 of the Bankruptcy Act 1883 (46 & 47 Vict. c. 50)

^a Read now United Provinces

(General Definitions)

"Political Agent."

(40) "Political Agent" shall include—

- (a) the principal officer representing the Government in any territory or place beyond the limits of British India, and
- (b) any officer of the Government of India or of any Local Government appointed by the Government of India or the Local Government to exercise all or any of the powers of a Political Agent for any place not forming part of British India under the law for the time being in force relating to foreign jurisdiction and extradition

"Presidency town."

(41) ¹ "Presidency town" shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William, Madras or Bombay, as the case may be

"Privy Council."

(42) ² "Privy Council" shall mean the Lords and others for the time being of Her Majesty's Most Honourable Privy Council

"Province."

(43) ³ "Province" shall mean the territories for the time being administered by any Local Government

"Public nuisance."

(44) "public nuisance" shall mean a public nuisance⁴ as defined in the Indian Penal Code

"Punjab Act."

⁵ [(44a) "Punjab Act" shall mean an Act made by the Lieutenant Governor of the Punjab in Council under the Indian Councils Acts, 1861 and 1892,] ⁶ [or the Indian Councils Acts 1861 to 1909] ⁷ [or the Government of India Act, 1915]

"Registered."

(45) ⁸ "registered, used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents

"Regulation."

(46) "Regulation" shall mean a Regulation made under the Government of India Act 1870,⁹ ¹⁰ [or the Government of India Act 1915]

¹ See s 4 (h) of the repealed Code of Criminal Procedure 1882 (Act 10 of 1882) and Cf s 3 (c) of the Madras General Clauses Act 1891 (Mad Act 1 of 1891) Mad Code Vol II

² Cf s 12 (5) of the Interpretation Act 1889 (50 & 53 Vict c 63) Coll Stats, Vol II

³ Cf s 4 (g) of the repealed Code of Criminal Procedure, 1882 (Act 10 of 1882)

⁴ As to procedure in the case of public nuisances see Code of Criminal Procedure 1898 (Act 5 of 1898) Ch X

⁵ This clause was inserted by the Repealing and Amending Act 1903 (1 of 1903)

⁶ 3 (10 of 1914)

⁷ (4 of 1915)

⁸ s 3 (11) Mad Act 1903 (16

Col of 1915)

⁹ Coll Stats Vol II

(General Definitions)

- (47) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment¹ "Rule"
- (48) "schedule" shall mean a schedule to the Act or Regulation in which the word occurs "Schedule,"
- (49) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled Districts Act, 1874 "Scheduled District,"
- (50) "section" shall mean a section of the Act or Regulation in which the word occurs "Section."
- (51) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars "Ship"
- (52) "sign" with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions "Sign."
- (53) "son," in the case of any one whose personal law permits adoption, shall include an adopted son "Son"
- (54) "sub section" shall mean a sub section of the section in which the word occurs "Sub-section."
- (55) "swear," with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing "Swear"
- [(55a) "United Provinces Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892,] "United Provinces Act."

¹ The provisions of ss 20 to 24, *infra* apply to rules defined in this sub section

² Cf s 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict, c 60), Coll Stats, Vol II

³ See also definition of "writing" in sub-section 53, *infra*

⁴ See also definitions of "affidavit" and "oath" *supra* sub-sections (3) and (36), respectively, and as to oaths see the Indian Oaths Act, 1873 (10 of 1873)

⁵ This clause was inserted by the Repealing and Amending Act, 1903 (1 of 1903),

⁶ These words were added by the Repealing and Amending Act, 1914 (10 of 1914)

⁷ These words were added by the Repealing and Amending Act, 1917 (24 of 1917,

(General Definitions General Rules of Construction)

- "Vessel." (56) ¹ "vessel" shall include any ship or boat or any other description of vessel used in navigation
- "Will" (57) ² "will" shall include a codicil and every writing making a voluntary posthumous disposition of property
- "Writing" (58) ³ expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form and
- "Year" (59) ⁴ "year" shall mean a year reckoned according to the British calendar

Application
of foregoing
definitions to
previous
enactments

4 (1) The definitions in section 3 of the following words and expressions, that is to say, "affidavit," "barrister," "British India," "District Judge," "father," "Government of India," * * * "High Court," "immovable property," "imprisonment," "Local Government," "Magistrate," "month," "movable property," "oath," "person," "section," "soa," "swear," "will" and "year," apply also unless there is anything repugnant in the subject or context, to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887

(2) The definitions in the said section of the following words and expressions, that is to say, "abet," "Chapter," "commencement," "financial year," "local authority," "master," "offence," "Part," "public nuisance," "registered," "schedule," "ship," "sign," "sub-section" and "writing," apply also unless there is anything repugnant in the subject or context, to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887

General Rules of Construction

5 (1) Where any Act of the Governor General in Council is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it receives the assent of the Governor General

Coming into
operation of
enactments

Vol. I
sup
of
187

1925)

19 Vict, c 60, Coll Stats, ship in sub-section (51), Penal Code 1860 (Act 45) Dramage Act 1873 (c of ns Act, 1878 (8 of 1878) succession Act, 1925 (39 of

¹ Cf s 20 of the Interpretation Act 1889 (52 & 53 Vict c 63) Coll Stats, Vol II

² As to "financial year" see sub-section (19) *supra*

³ The words "Her Majesty" or "the Queen" were repealed by the Repealing and Amending Act, 1919 (18 of 1919)

(General Rules of Construction)

1[(2) Where any Act of the Governor General in Council is reserved, under section 68 of the Government of India Act 1915, for the signification of His Majesty's pleasure thereon, then if no later date is expressed, it shall come into operation if assented to by His Majesty, on the day on which that assent is duly notified.]

2(3) Unless the contrary is expressed, an Act of the Governor General in Council or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

3 Where this Act or any Act of the Governor General in Council or Regulation made after the commencement of this Act repeals any enactment hitherto made or hereafter to be made then unless a different intention appears, the repeal shall not—

Effect of
repeal

- (a) revive anything not in force or existing at the time at which the repeal takes effect or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder or
- (c) affect any right privilege obligation or liability acquired accrued or incurred under any enactment so repealed, or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed, or
- (e) affect any investigation legal proceeding or remedy in respect of any such right privilege obligation liability penalty forfeiture or punishment as aforesaid

and any such investigation legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed

7. 4 (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act it shall be necessary, for the purpose of reviving either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose

Revival of
repealed
enactments

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January 1868 and to all Regulations made on or after the fourteenth day of January, 1887

¹ This sub-section was substituted by the Repealing and Amending Act 1917 (24 of 1917)

² Cf s 36 (2) of the Interpretation Act 1889 (52 & 53 Vict c 63) Coll Stats, Vol II

As to power to take rule between the passing and commencement of an Act which does not come into force at once see s 22 *infra*

³ Cf s 33 of the Interpretation Act 1889 (52 & 53 Vict c 63) Coll Stats Vol II

⁴ Cf s 11 *ibid*

(General Rules of Construction)

Construction
of reference
to repealed
enactments

¹[8 (1)]² Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals and re enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re enacted

³[(2) Where any Act of Parliament repeals and re enacts, with or without modification, any provision of a former enactment then references in any Act of the Governor General in Council or in any Regulation or instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re enacted]

Commence
ment and
termination
of time.

9 (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to "

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868 and to all Regulations made on or after the fourteenth day of January, 1887

Computa-
tion of
time

10⁴ (1) Where by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period then if the Court or office is closed on that day or the last day of the prescribed period the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open

Provided that nothing in this section shall apply to any act or proceeding to which the ⁵Indian Limitation Act, 1877, applies xv

(2) This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887

Measurement
of distances

11⁶ In the measurement of any distance for the purposes of any Act of the Governor General in Council or Regulation made after the com

¹ This section was re numbered by the Repealing and Amending Act 1919 (18 of 1919)

² Cf s 38 (1) of the Interpretation Act 1889 (52 & 53 Vict, c 63) Coll Stats, Vol 11 See a similar provision in s 3 of the Code of Criminal Procedure 1896 (Act 5 of 1896)

³ Sub section (2) was added by the Repealing and Amending Act 1919 (18 of 1919)

⁴ See the Madras General Clauses Act 1891 (Mad Act I of 1891) s 11 Mad Code Vol II

⁵ See now Act 9 of 1908

⁶ Cf s 34 of the Interpretation Act 1889 (52 & 53 Vict c 63) Coll Stats, Vol II

(General Rules of Construction Powers and Functionaries)

commencement of this Act, distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane

12 Where, by any enactment¹ now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity Duty to be taken *pro rata* in cases in which the rate is not the same

13 In all Acts of the Governor General in Council and Regulations, unless there is anything repugnant in the subject or context,— Gender and number

(1) words importing the masculine gender shall be taken to include females, and

(2) words in the singular shall include the plural, and *vice versa*

*[13A. In all Acts of the Governor General in Council and Regulations, references to the Sovereign or to the Crown shall, unless a different intention appears, be construed as references to the Sovereign for the time being] References to the Sovereign.

Powers and Functionaries

14 (1) Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any power is conferred * * *, then, '[unless a different intention appears,] that power may be exercised from time to time as occasion requires' Powers conferred on the Government to be exercisable from time to time.

(2) This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887

15 Where, by any Act of the Governor General in Council or Regulation, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office Power to appoint to include power to appoint *ex officio*

16 Where, by any Act of the Governor General in Council or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power Power to appoint to include power to suspend or dismiss

17 (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the Substitution of functionaries

¹ As to definition of "enactment" see s 3 subsection (17) *supra*

² This section was inserted by the Repealing and Amending Act 1919 (18 of 1919)

(General Rules of Construction)

Construction
of reference
to repealed
enactments

¹[8 (1)]² Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals and re enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re enacted

³[(2) Where any Act of Parliament repeals and re enacts, with or without modification, any provision of a former enactment then references in any Act of the Governor General in Council or in any Regulation or instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re enacted]

Commence-
ment and
termination
of time

9 (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to"

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887

Computation
of time

10 ⁴ (1) Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open

Provided that nothing in this section shall apply to any act or proceeding to which the ⁵Indian Limitation Act 1877, applies

(2) This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887

Measurement
of distances

11 ⁶ In the measurement of any distance, for the purposes of any Act of the Governor General in Council or Regulation made after the com-

¹ This section was re-numbered by the Repealing and Amending Act, 1919 (18 of 1919)

² Cf s 38 (1) of the Interpretation Act 1889 (52 & 53 Vict, c 63) Coll Stats, Vol II See a similar provision in s 3 of the Code of Criminal Procedure 1893 (Act 5 of 1893)

³ Sub-section (2) was added by the Repealing and Amending Act 1919 (18 of 1919)

⁴ See the Madras General Clauses Act 1891 (Mad Act 1 of 1891) s 11 Mad Code Vol II

⁵ See now Act 9 of 1908

⁶ Cf s 34 of the Interpretation Act 1889 (52 & 53 Vict c 63) Coll Stats, Vol II

(General Rules of Construction Powers and Functionaries)

commencement of this Act, distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane

12 Where, by any enactment¹ now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity. Duty to be taken pro rata in en-
tim etc.

13 In all Acts of the Governor General in Council and Regulations, unless there is anything repugnant in the subject or context,— Gender and
number

(1) words importing the masculine gender shall be taken to include females, and

(2) words in the singular shall include the plural, and *vice versa*

²[13A. In all Acts of the Governor General in Council and Regulations, references to the Sovereign or to the Crown shall, unless a different intention appears, be construed as references to the Sovereign for the time being] References
to the
Sovereign.

Powers and Functionaries

14 (1) Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any power is conferred * * *, then, '[unless a different intention appears,] that power may be exercised from time to time as occasion requires' Powers con-
ferred on the
Government
to be exer-
cisable from
time to time

(2) This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887

15 Where, by any Act of the Governor General in Council or Regulation, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office * Power to
appoint
to include
power to
appoint
ex officio

16 Where by any Act of the Governor General in Council or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power * Power to
appoint
to include
power to
suspend or
dismiss.

17 (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act it shall be sufficient, for the Substitution
of function-
aries

¹ As to definition of "enactment" see s. 3 sub-section (17) *supra*

² This section was inserted by the Repealing and Amending Act 1919 (18 of 1919)

— "ted by *ditto*

(Powers and Functionaries Provisions as to Orders Rules etc made under Enactments)

purpose of indicating the application of a law to every person or number of persons for the time being executing the function of an office, to mention the official title of the officer at present executing the functions or that of the officer by whom the functions are commonly executed

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January 1868 and to all Regulations made on or after the fourteenth day of January 1887

Successors

18 (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act it shall be sufficient for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession to express its relation to the functionaries or corporation

(2) This section applies also to all Act of the Governor General in Council made after the third day of January 1868 and to all Regulations made on or after the fourteenth day of January 1887

Official chiefs and subordinates

19 (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act it shall be sufficient for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinate lawfully performing the duties of that office in the place of their superior to prescribe the duty of the superior

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January 1868 and to all Regulations made on or after the fourteenth day of January 1887

Provisions as to Orders Rules etc made under Enactments

Construction of orders etc issued under enactments.

20 ¹ Where by any Act of the Governor General in Council or Regulation a power to issue any "[notification]" order scheme rule, form or bye law is conferred then expressions used in the "[notification,]" order, scheme rule form or bye law, if it is made after the commencement of this Act shall unless there is anything repugnant in the subject or context have the same respective meanings as in the Act or Regulation conferring the power

Power to make to include power to add to amend vary

21 ² Where by any Act of the Governor General in Council or Regulation a power to "[issue notifications]" orders rules or bye laws is conferred, then that power includes a power exercisable in the like manner

¹ Cf s 31 of the Interpretation Act 1899 (51 & 53 Vict c 63) Coll Stats, Vol II and s 10 of the Madras General Clauses Act 1891 (Mad Act I of 1891) Mad Code Vol II

² The word notification was inserted by the Repealing and Amending Act, 1903 (1 of 1903), s 3

³ Cf s 32 (y) of the Interpretation Act 1899 (52 & 53 Vict c 63) Coll Stats, Vol II

⁴ These words were substituted for the word make by the Repealing and Amending Act 1903 (1 of 1903) s 3

(Provisions as to Orders, Rules, etc., made under Enactments)

and subject to the like sanction and conditions (if any), to add to, amend, or rescind, vary or rescind any ¹[notifications] orders, rules or bye-laws so ²[issued] or orders, rules or bye laws

22.³ Where, by any Act of the Governor General in Council or Regulation which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation, but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.

23. Where, by any Act of the Governor General in Council or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely —

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby,
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Governor General in Council or the Local Government prescribes,
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration,
- (4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified,
- (5) the publication in the Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or

Making of rules or bye-laws and issuing of orders between passing and commencement of enactment

Provisions applicable to making of rules or bye-laws after previous publication.

¹ This word was inserted by s 3 and 2nd Sch of the Repealing and Amending Act, 1903 (1 of 1903)

² This word was substituted for the word "made" by s 3 and 2nd Sch. *ibid*
³ (1 of 1903) of the Interpretation Act, 1909 (52 & 53 Vict., c 63), Coll Stats, Vol II.

*(Provisions as to Orders, Rules, etc., made under Enactments.
Miscellaneous)*

bye-laws after previous publication shall be conclusive proof
that the rule or bye-law has been duly made

Continuation
of orders,
etc., issued
under enact-
ments repeal-
ed and re-
enacted.

24 ¹ Where any Act of the Governor General in Council or Regulation is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any ² [appointment, notification], order, scheme, rule, form or bye-law, ² [made or] issued under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been ² [made or] issued under the provisions so re-enacted, unless and until it is superseded by any ² [appointment, notification,] order, scheme, rule, form or bye-law ² [made or] issued under the provisions so re-enacted, ³ [and when any Act of the Governor General in Council or Regulation, which, by a notification under section 5 or 5A of the Scheduled Districts Act, 1874, or any like law, has been extended XLV to any local area, has, by a subsequent notification, been withdrawn from and re-extended to such area or any part thereof, the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this section]

Miscellaneous

Recovery of
fines

25 Sections 63 to 70 of the Indian Penal Code and the provisions of XLV the 'Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law, unless the Act, Regulation, rule or bye-law contains an express provision to the contrary

Provision as
to offences
punishable
under two or
more enact-
ments

26. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence³

Meaning of
service by
post

27 ⁴ Where any Act of the Governor General in Council or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used,

¹ Cf. s. 18 of the Madras General Clauses Act, 1891 (Mad Act 1 of 1891), Mad Code, Vol. II

² These words were inserted by the Repealing and Amending Act, 1903 (1 of 1903) s. 3

³ These words were added by the Second Repealing and Amending Act, 1914 (17 of 1914)

⁴ See now s. 346 *et seq.* of the Code of Criminal Procedure 1898 (Act 5 of 1898)

⁵ As to definition of "offence" see sub-section (37) of section 3, *supra*

⁶ Cf. s. 26 of the Interpretation Act 1899 (52 & 53 Vict., c. 63), Coll. Stats., Vol. II

(Miscellaneous)

then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post

28¹ (1) In any Act of the Governor General in Council or Regulation and in any rule, bye-law, instrument or document made under, or with reference to any such Act or Regulation, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained Citation of enactments

(2) In this Act and in any Act of the Governor General in Council or Regulation made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation

29.² The provisions of this Act respecting the construction of Acts, Regulations, rules or bye-laws made after the commencement of this Act shall not affect the construction of any Act, Regulation, rule or bye-law made before the commencement of this Act, although the Act, Regulation, rule or bye-law is continued or amended by an Act, Regulation, rule or bye-law made after the commencement of this Act Saving for previous enactments, rules and bye-laws

*[30. In this Act the expression "Act of the Governor General in Council," wherever it occurs, except in section 5, and the word "Act" in clauses (9), (12), (38), (48), and (50) of section 3 and in section 25 shall be deemed to include an Ordinance made and promulgated by the Governor General under section 23 of the Indian Councils Act, 1861,] Application of Act to Ordinances ct. [or section 72 of the Government of India Act, 1915]

*[30A. In this Act the expression "Act of the Governor General in Council," wherever it occurs, except in section 5, shall be deemed to include an Act made by the Governor General under section 67B of the Government of India Act] Application of Act to Acts made by the Governor General

¹ Cf. s. 35 of the Interpretation Act, 1899 (62 & 63 Vict., c. 63). Short titles have been conferred on the unrevoked General Acts of the Governor General in Council which had previously no short titles, see the Indian Short Titles Act, 1897 (14 of 1897).

² Cf. s. 40 of the Interpretation Act, 1899 (62 & 63 Vict., c. 63), Coll. Stats., Vol. II.

³ This section was added by the Second Repealing and Amending Act, 1914 (17 of 1914).

⁴ These words were added by the Repealing and Amending Act 1917 (24 of 1917).

⁵ Section 30A was inserted by s. 2 and Sch. 1 of the Repealing and Amending Act, 1923 (11 of 1923).

Construction
of references
to Local Gov-
ernment of a
Province.

¹[31. In any enactment made by any authority in British India before the date on which section 3 of the Government of India Act, 1919, comes into operation, and in any rule, order, notification, scheme, bye-law or other document made under or with reference to any such enactment, any reference by whatever form of words to an authority authorized by law, at the time the enactment was made, to administer executive Government in any part of British India shall, where a corresponding new authority has been constituted by the Government of India Act, 1919, be construed for all purposes, after the abovementioned date, as a reference to such new authority.]

THE SCHEDULE

ENACTMENTS REPEALED

[*Rep by the Repealing and Amending Act, 1903 (1 of 1903)*]

ACT No. XIV of 1897

[22nd July, 1897]

An Act to facilitate the citation of certain Acts

WHEREAS it is expedient to facilitate the citation of certain Acts, It is hereby enacted as follows —

Title	1. (1) This Act may be called the Indian Short Titles Act, 1897, ² *
	* * * * *
Citation of Acts de- scribed in schedule	2 Each of the Acts described in the first three columns of the schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof

¹ This section was added by s 2 and Sch I of the Repealing and Amending Act 1903 (1 of 1903)

² For Statement of Objects and Reasons see Gazette of India 1897 Pt V p 110 and for Proceedings in Council see ibid 1897 pp 206 and 217

This Act has been
Laws Act 1897
1910 Burma
see B and O C
(2 of 1913) see BaL Code

³ The word "and" at the end of sub-section (1) and sub-section (2) were repealed by the Repealing and Amending Act 1914 (10 of 1914)

THE SCHEDULE ¹

1	2	3	4
Year	No.	Subject.	Short title
1834	II	Authorising Secretaries to Government to exercise powers of Chief Secretaries	The Secretaries to Government Act, 1834
1837	IV	Empowering all subjects of Her Majesty to hold land.	The Property in Land Act, 1837
1838	XXV	Wills	The Wills Act, 1838
1839	XXIX	Amending the Law relating to Dower . . .	The Dower Act, 1839
"	XXX	Amending the Law of inheritance . . .	The Inheritance Act, 1839
"	XXXII	Concerning the allowance of interest in certain cases	The Interest Act 1839
1841	2	The Indian Registration of Ships Act, 1841
"	"	"
"	"	"
"	"	"
1841	XXIV	Provision for the more effectual carrying into effect of the orders of the Council of India in Council made in pursuance of the Statute 3rd and 4th Victoria, ch. 53	The
"	"	"
"	"	"
"	"	"
1843	V	Declaring and amending the Law regarding the condition of slavery within the territories of the East India Company	The Indian Slavery Act, 1843
1846	I	Amending the Law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company	The Legal Practitioners Act, 1846
"	"	"

¹ Acts to which short titles have been given by this schedule are unrepealed General Acts of the Governor General in Council, and, where they have not since been repealed, they will be found reprinted in one of the volumes of the revised edition of these Acts, according to the year to which they belong.

² The entry relating to Act 19 of 1841 was repealed by s. 2 and Sch. of Act 12 of 1927.

³ The entry relating to Act 27 of 1841 was repealed by *ibid.*

⁴ The entry relating to Act 20 of 1841 was repealed by *ibid.*

THE SCHEDULE—contd

1	2	3	4
Year	No.	Subject.	Short title
1848	XX	Forbidding trading by the Officers of the Supreme Courts	The Supreme Courts Officers Trading Act, 1848
1850	V	Providing for freedom of the Coasting Trade of India.	The Indian Coasting Trade Act 1850
"	XI	Amending Act V, 1848	The Indian Registration of Ships Act (1848) Amendment Act 1850.
"	XII	Providing for avoiding loss by the default of Public Accountants.	The Public Accountants' Default Act 1850.
"	XVIII	Providing for the protection of Judicial Officers	The Judicial Officers Protection Act, 1850
"	XIX	Concerning the conduct of Apprentices	The Apprentices Act 1850.
"	XXI	Do " " "	The Caste Disabilities Moral Act, 1850
"	XXIV	Providing for the better Custody of State Prisoners.	The State Prisoners Act, 1850
1851	XIII	Enabling Government to levy Tolls on Public Roads and Bridges.	The Indian Tolls Act, 1851
1852	XIII	" " " "	The Sheriffs Fees Act, 1852
"	"	" " " "	" " " "
1853	II	" " " "	The Landholders' Public Charges and Duties Act 1853.
"	XX	Members of land or their local Agents or Managers.	The Legal Practitioners Act 1853
"	XX	Amending the Law relating to Pleaders in the Courts of the East India Company	The Legal Practitioners Act 1853
1854	XXXX	Summarizing the modes of conveying land in cases to which the English Law is applicable.	The Conveyance of Land Act, 1854
1855	VI	Relating to Mesne Profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.	The Mesne Profits and Improvements Act 1855

¹ The entry relating to Act 59 of 1850 was repealed by the Indian Naturalization Act, 1906 (7 of 1906)

THE SCHEDULE—*contd*

1	2	3	4
Year	No.	Subject.	Short title
1855	VII	Enabling Executors, Administrators or Representatives to sue and be sued for certain wrongs	The Legal Representatives' Suits Act, 1855
"	VIII	Providing compensation to families for loss occasioned by the death of a person caused by accidental wrong	The Indian Fatal Accidents Act, 1855
"	VIII	Amending the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage	The Mortgaged Estates Administration Act, 1855
"	XXIV	Substituting penal servitude for the punishment of transportation in respect of European and American Convicts	The Penal Servitude Act, 1855
"	XXVIII	Repealing the Usury Laws	The Usury Laws Repeal Act, 1855
1856	IV	Amending the law relating to Bills of Lading	The Indian Bills of Lading Act, 1856
"	VI	Providing for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty in India	The European Deserters Act, 1856
"	VI	Removing all legal obstacles to the marriage of Hindu Widows	The Hindu Widows' Remarriage Act, 1856
1857	II	Providing for the establishment and incorporation of a University at Calcutta	The Calcutta University Act, 1857
"	"	" " " " "	" " " " "
1857	XXII	Providing for the establishment and incorporation of a University at Bombay.	The Bombay University Act, 1857
"	"	" " " " "	" " " " "
"	"	" " " " "	" " " " "
1858	III	Amending the Law relating to the arrest and detention of State Prisoners	The State Prisoners Act 1858
"	"	" " " " "	" " " " "
"	"	" " " " "	" " " " "
1859	IX	Providing for the adjudication of claims to property seized or forfeited	The Forfeiture Act, 1859.

¹ The entry relating to Act II of 1857 was repealed by the Special Laws Repeal Act, 1922 (4 of 1922)

² The entry relating to Act 25 of 1857 was repealed by *ibid*

³ The entry relating to Act 27 of 1857 was repealed by a 2 and Sch. of Act 12 of 1927.

⁴ The entries relating to Acts 31, 35 and 36 of 1859 were repealed by *ibid*

⁵ The entry relating to Act I of 1859 was repealed by the Indian Merchant Shipping Act, 1923 (21 of 1923)

THE SCHEDULE—*contd*

1	2	3	4
Year	No.	Subject	Short title
1860	IX	Making provision for the speedy determination of certain disputes between workmen engaged in railway and other public works and their employers	The Employers and Workmen (Disputes) Act, 1860
"	XXI	Providing for the Registration of Literary, Scientific and Charitable Societies	The Societies Registration Act, 1860
"	XXXIV	Indemnifying Officers of Government and other persons in respect of fines and contributions levied, and acts done, by them during the late disturbances	The Government Officers Indemnity Act 1860
1861	V	Providing for the Regulation of Police	The Police Act, 1861
"	XVI	Providing for the licensing and regulation of Stage Carriages.	The Stage Carriages Act, 1861
1862	III	Amending the Law relating to the use of a Government Seal	The Government Seal Act 1862
1863	XVI	Making special provision for the levy of the Excise-duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry	The Excise (Spirits) Act 1863
"	XX	Enabling the Government to divest itself of the management of Religious Endowments	The Religious Endowments Act, 1863
"	XXIII	Providing for the adjudication of claims to waste lands.	The Waste Lands (Claims) Act 1863
"	XXXI	Giving effect to the publication of certain orders and other matters in the Gazette of India.	The Official Gazette Act 1863
1864	III	Giving the Government certain powers with respect to Foreigners	The Foreigners Act 1864
1864	XV	Amending Act VIII of 1851 (for enabling Government to levy Tolls on public Ponds and Bridges)	The Indian Tolls Act 1864

¹ The entry relating to Act 17 of 1860 was repealed by the Workmen's French of Contract (Repealing) Act 1925 (3 of 1925)

² The entry relating to Act 47 of 1860 was repealed by the Amendment of Act 19 of 1862

³ The entry relating to Act 6 of 1864 was repealed by 1864

⁴ The entry relating to Act 17 of 1864 was repealed by 1864

THE SCHEDULE—*contd*

1	2	3	4
Year	No.	Subject.	Short Title.
1866	XXX	Providing for the transfer to the Government of India of certain securities and moneys deposited in the High Courts of Judicature at Fort William, Madras and Bombay	The Unclaimed Deposits Act, 1866
1867	XVI	Authorizing the making of certain appointments to certain Judicial Offices	The Acting Judges Act, 1867
"	XXV	Providing for the regulation of Printing presses and Newspapers for the preservation of copies of books printed in British India and for the registration of such books	The Press and Registration of Books Act, 1867
"	"	" " " "	" " "
1870	V	Enabling the High Courts at the Presidency towns to deal with costs of petitions for certain moneys transferred to Government	The Unclaimed Deposits Act 1870
"	VIII	Providing for the prevention of the murder of Female Infants	The Female Infants' Prevention Act, 1870
"	XX	Correcting two clerical errors in the Court fees Act, 1870	[The Court fees Act (1870) Amendment Act 1870]
"	XXVII	Amending the Indian Penal Code	The Indian Penal Code Amendment Act 1870
1872	III	" " " "	The Special Marriage Act, 1872
"	XIX	Amending the definition of 'Cognate' in the Indian Penal Code	The Indian Penal Code Amendment Act 1872
"	"	" " " "	" " "
"	"	" " " "	" " "
1875	XIII	Amending the Law relating to Probates and Letters of Administration	[The Court Fees (Amendment) Act, 1875]

¹ The entry relating to Act 21 of 1865 was repealed by s. 2 and Sch. of Act 12 of 1907

² The entry relating to Act 5 of 1866 was repealed by the Transfer of Property Act, 1900 (2 of 1900)

³ The entry relating to Act 1 of 1870 was repealed by s. 2 and Sch. of Act 12 of 1907

⁴ The entry relating to Act 1 of 1870 was repealed by s. 2 and Sch. of Act 12 of 1907

⁵ The entry relating to Act 1 of 1870 was repealed by s. 2 and Sch. of Act 12 of 1907

THE SCHEDULE—*contd*

1	2	3	4
Year	No	Subject	Short Title
1876	XVI	Amending the Stage Carriages Act . . .	The Stage-Carriages Act (1861) Amendment Act, 1876
"	"	" " " " " "	" "
1877	IV	Regulating the procedure and increasing the jurisdiction of the Courts of Magistrates in the Presidency towns	The Presidency Magistrates (Court fees) Act, 1877
1879	XII	Amending the Registration Act 1877, and the Limitation Act, 1877	The Registration and Limitation Acts Amendment Act 1879
1882	VIII	Amending the Indian Penal Code . . .	The Indian Penal Code Amendment Act, 1882
1883	II	Amending the Elephants' Preservation Act, 1879.	The Elephants' Preservation Act (1879) Amendment Act, 1883
"	"	" " " " " "	" "
1885	III	Amending the Transfer of Property Act, 1882	The Transfer of Property Act (1882) Amendment Act, 1885
"	IX	Amending the Excise Act, 1881 the Bengal Excise Act 1878 and the Sea Customs Act, 1878	The Excise and Sea Customs Law Amendment Act, 1885
"	"	" " " " " "	" "
"	"	" " " " " "	" "
1886	IV	Amending section 265 of the Indian Contract Act, 1872	The Indian Contract Act (1872) Amendment Act 1886
"	X	Amending the Code of Criminal Procedure, 1882, and certain other Acts	The Indian Criminal Law Amendment Act, 1886
"	"	" " " " " "	" "
1887	II	Amending the Sea Customs Act, 1878 the Excise Act, 1881, and the Indian Tariff Act, 1882	The Sea Customs Act (1878) Amendment Act 1887
"	III	Amending the Indian Evidence Act 1872	The Indian Evidence Act (1872) Amendment Act, 1887

t 12 of 1927

?
the tax Act 1919

* The entry relating to Act 18 of 1886 was repealed by s 2 and Sch of Act 15 of 1927

THE SCHEDULE.—*contd*

1	2	3	4
Year	No.	Subject	Short title
18	.	.	.
18	.	.	.
18	.	.	.
1888	II	Providing for the levy of a Customs duty on Petroleum	The Petroleum (Customs duty) Act, 1888
"	VIII	Removing doubts as to the legality of the levy of certain Folls	The Indian Folls Act, 1888.
"	.	.	.
1888	XI	Making an addition to the Indian Telegraph Act 1885	The Indian Telegraph (Presidency towns) Act, 1888
"	XVII	Amending the Indian Marine Act, 1867	The Indian Marine Act (1867) Amendment Act, 1888
1889	VIII	Amending the Sea Customs Act, 1878, and the Indian Tariff Act, 1882	The Sea Customs Act (1878) Amendment Act, 1889
18	.	.	.
18	.	.	.
18	.	.	.
1890	X	Amending Act XXV of 1867	The Press and Registration of Books Act (1867) Amendment Act, 1890
"	.	.	.
1890	XVI	Amending the Births Deaths and Marriages Registration Act, 1886	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890

* The entry relating to Act 5 of 1887 was repealed by the Repealing and Amending Act 1914 (10 of 1914)

2 and Sch. of Act 12 of 1927
the Repealing and Amending Act,

2 and Sch. of Act 12 of 1927
the Repealing and Amending Act,

2 and Sch. of Act 12 of 1927
the Indian Merchant Shipping Act,

Act, 1923 (21 of 1923)

* The entry relating to Act 14 of 1890 was repealed by the Petroleum Act, 1890 (8 of 1890).

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
18	.	.	.
18	.	.	.
1891	I	Amending the Cattle trespass Act, 1871, and incorporating therein Act XVIII of 1883	The Cattle-trespass Act (1871) Amendment Act, 1891.
"	II	Amending the Indian Christian Marriage Act, 1872.	The Indian Christian Marriage Act (1872) Amendment Act, 1891.
"	III	Amending the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882.	The Indian Evidence Act (1872) Amendment Act, 1891.
18	.	.	.
18	.	.	.
1891	VII	Amending Act X of 1811	The Indian Registration of Ships Act (1811) Amendment Act, 1891.
"	IX	Amending the Indian Merchandise Marks Act, 1857, and the Sea Customs Act, 1875	The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891.
"	X	Amending the Indian Penal Code and the Code of Criminal Procedure, 1882.	The Indian Criminal Law Amendment Act, 1891.
18	.	.	.
1892	II	Validating certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872.	The Marriages Validation Act, 1892.
18	.	.	.

* The entry relating to Act 18 of 1850 was repealed by the Repealing and Amending Act, 1914 (10 of 1914).

* The entry relating to Act 19 of 1890 was repealed by s. 2 and Sch. of Act 12 of 1927.

* The entries relating to Acts 4 and 5 of 1891 were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

* The entry relating to Act 6 of 1891 was repealed by the Indian Merchant Shipping Act, 1923 (21 of 1923).

* The entry relating to Act 13 of 1891 was repealed by the Inland Steam-Vessels Act, 1917 (1 of 1917).

* The entries relating to Acts 6 of 1892 and 5 of 1893 were repealed by the Repealing and Amending Act, 1914 (10 of 1914).

THE SCHEDULE—*contd*

1	2	3	4
Year	No	Subject	Short Title
1834	III	Amending the Code of Criminal Procedure, 1832 and the Indian Penal Code	The Indian Criminal Law Amendment Act, 1894
1834	"	" " " "	" "
1834	"	" " " "	" "
1834	"	" " " "	" "
1895	III	Amending the Indian Penal Code, Act VI of 1861, and the Indian Post Office Act, 1866	The Indian Criminal Law Amendment Act, 1895
1895	"	" " " "	" "
1895a	VII	Amending certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872	The Punjab Laws Act Amendment Act, 1895
"	VIII	Amending Act V of 1861 (<i>Act for the Regulation of Police</i>)	The Police Act (1861) Amendment Act, 1895
"	"	" " " "	" "
1896	"	" " " "	" "
1896	"	" " " "	" "
1896	VI	Amending the Indian Penal Code	The Indian Penal Code, Amendment Act, 1896

¹ The entry relating to Act 2 of 1894 was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

² So far as this Act relates to the Criminal Procedure Code, 1832 (Act 10 of 1832), it has been repealed by the Code of Criminal Procedure, 1898 (Act 5 of 1898)

³ The entry relating to Act 6 of 1894 was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

⁴ The entry relating to Act 7 of 1894 was repealed by s. 2 and Sch. of Act 12 of 1927

⁵ The entry relating to Act 10 of 1894 was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

⁶ The entry relating to Act 4 of 1895 was repealed by *ibid*

⁷ The entries relating to Acts 13 of 1895 and 1 of 1896 were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

⁸ The entry relating to Act 3 of 1896 was repealed by s. 2 and Sch. of Act 12 of 1927

⁹ The entries relating to Acts 4 and 5 of 1896 were repealed by the Repealing and Amending Act, 1914 (10 of 1914)

THE SCHEDULE—*concl'd*

1	2	3	4
Year	No	Subject	Short title
1896	IX	Amending the Indian Railways Act, 1890	The Indian Railways Act (1890) Amendment Act, 1896
"	XI	Amending the Legal Practitioners Act, 1879	The Legal Practitioners Act, 1896
"	"	"	"
"	"	"	"
"	"	"	"
1897	I	Amending Act XXXVII of 1850 (<i>for regulating Inquiries into the behaviour of Public Servants</i>)	The Public Servants (Inquiries) Act (1850) Amendment Act 1897
"	"	"	"

¹ The entry relating to Act 7 of 1896 was repealed by s. 2 and Sch. of Act 12 of 1927

² The entry relating to Act 13 of 1896 was repealed by the Repealing and Amending Act, 1914 (10 of 1914)

³ The entry relating to Act 15 of 1896 was repealed by the Glanders and Farcy Act 1899 (13 of 1899)

⁴ The entry relating to Act 18 of 1896 was repealed by the Indian Post Office Act, 1893 (8 of 1893)

⁵ The entry relating to Act 13 of 1897 was repealed by the Repealing and Amending Act 1914 (10 of 1914)

INDEX.

	PAGES
Amending Act, 1891	189
Amending Act, 1897	324
Amending (Army) Act 1894	293
Animals <i>see</i> Prevention of Cruelty to Animals Act, 1890	
Bankers' Books Evidence Act, 1891	201
Books	
bankers', mode of proof of entries in	202
case in which officer of bank not compellable to produce	202
inspection of, by order of court or judge	202
Costs	203
Definitions	201, 202
Bankers' Books Evidence Act, 1893	203
Bankers' Books Evidence Act, 1891, amended	209
Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890	173
Births, Deaths and Marriages Registration Act, 1836, amended	173
Books <i>see</i> Bankers' Books Evidence Act, 1891	
Cattle-trespass Act Amendment Act, 1891	173
Cattle trespass Act, 1871, amended	173-176
Charitable Endowments Act, 1890	79
Advocate-General and Official Trustee, saving with respect to	84
Definition	79
Governor General in Council, exercise by, of powers of Local Government	82
Rules, power to make, and frame forms	83
Treasurer of Charitable Endowments,	
annual publication of list of properties vested in	82
appointment and incorporation of	80
bare trusteeship of	82
indemnity to Government and	81
limitation of functions and powers of	83
orders vesting property in	80
provision for continuance of office of, in certain contingencies	82
schemes for administration of property vested in	81
transfer of property from one, to another	83
Vesting orders and schemes, mode of applying for	82
Colonial Courts of Admiralty (India) Act, 1891	199
Colonial Courts of Admiralty,)	
appointment of	200
at Rangoon, Aden and Karachi, court fees in suits in	200
Indian Acts, construction of, referring to Admiralty and Vice-Admiralty courts	200
Companies <i>see</i> Indian Railway Companies Act, 1895	
Courts <i>see</i> Colonial Courts of Admiralty (India) Act, 1891	
Provincial Small Cause Courts Act, 1897	
Crown Grants Act, 1895	310
Crown Grants,	
to take effect according to their tenor	311
Transfer of Property Act, 1882, not to apply to	311

Customs duty *see* Petroleum (Customs-duty) Act, 1883

Diseases *see* Epidemic Diseases Act, 1897

Endowments *see* Charitable Endowments Act, 1890

Epidemic Diseases Act, 1897

320

Diseases dangerous epidemic power to take special measures and prescribe regulations as to

320

Local Government, concurrent powers of

321

Penalty

321

Protection to persons acting under Act

321

Estates *see* Government Management of Estates Act, 1892

Evidence *see* Rulers' Books Evidence Act, 1891

Excise (Malt Liquors) Act, 1890

172

Malt liquor, application of provisions of s. 170 of Act VIII of 1878 to

172

Fisheries *see* Indian Fisheries Act, 1897

General Clauses Act, 1897

343

Acts, made by the Governor General application of Act to

350

Commencement and termination of time

354

Computation of time

354

Definitions

344-352

Enactments,

citation of

350

coming into operation of

352

construction of orders, etc. issued under

356

duty to be taken *pro rata* in

355

effect of repeal of

353

previous and rules and bye laws saving for

350

previous application of definitions to

352

repealed construction of reference to

354

repealed revival of

353

repealed and re-enacted continuation of orders, etc. issued under

358

Fines recovery of

353

Functionaries substitution of

355

Gender and number

355

Measurement of distances

354

Offences provision as to punishable under two or more enactments

358

Official chiefs and subordinate

356

Ordinances application of Act to

350

Powers

conferred on the Government to be exercisable from time to time

355

to appoint to include power to suspend or dismiss

355

to appoint to include power to appoint *ex officio*

355

to make to include power to add to amend, vary, etc.

356

References

construction of to Local Government of a province

360

to the Sovereign

355

Rules or bye laws

issuing of and issuing of orders between passing and commencement of enactment

357

provisions applicable to making of, after previous publication

357

Service by post meaning of

358

Successors

356

	PAGES
Government Management of Private Estates Act 1892	206
Charges special power to levy	208
Definitions	206 207
Exemption from jurisdiction of courts	208
Expenditure, special, saving as to	208
Rates,	
past validation of levy of	203
power to levy	207
Rules power to make	208
Grants <i>see</i> Crown Grants Act 1830	
Guardians and Wards Act 1890	85
Collector,	
appointment or declaration of in virtue of office	95
reports by, and subordinate courts	103
Costs	104
Courts,	
having jurisdiction to entertain application for guardianship	91
matters to be considered by, in appointing guardian	94
of Wards and Chartered High Courts, saving of jurisdiction of	88
power of, to make interlocutory orders for production of minor and	
interim protection of person and property	93
power of, to make order as to guardianship	90
removal of ward from jurisdiction of	96
simultaneous proceedings in different	93
Definitions	88
Evidence hearing of, before making order	93
Guardians	
applicability of Act to, already appointed by court	105
appointment or declaration of, for property beyond jurisdiction of	
the court	94
capacity of minors to act as	98
cessation of authority of	101
control of Collector as	96
dead, discharged or removed appointment of successor to	102
discharge of	101
fiduciary relation of, to ward	95
form of application as	91
general liability of as trustee	100
joint right of survivorship among	100
not to be appointed by the court in certain cases	95
of property, duties of	97
of property appointed or declared by the court limitation of	
powers of	97
of property appointed or declared by the court variation of powers	
of	93
of property appointed or declared by the court, right of, to apply	
to the court for opinion in management of property of ward	93
of property appointed or declared by the court, obligations on	92
of the person, duties of	96
orders for regulating conduct or proceedings of, and enforcement of	
those orders	102
persons entitled to apply for order as to	90
power of parents to appoint, in case of European British subjects	90
procedure on admission of application as	92
removal of	100
remuneration of	96

	PAGES.
Guardians and Wards Act, 1890— <i>concl'd</i>	
Guardians— <i>concl'd</i>	
saving of power to appoint, in nther cases	90
several, appointment or declaration of	94
suit against, where administration bond was taken	99
suit against, where administration bond was not taken	99
testamentary, powers of	97
title of, to custody of ward	96
Indian Majority Act, amended	105
Officers, subordinate judicial, power to confer jurisdiction on, and to transfer proceedings to	89
Orders,	
appellable	104
other, finality of	104
Penalties,	
for contumacy	103
for removal of ward from jurisdiction	102
Property,	
practice with respect to permitting transfers of, under s 2	97
voidability of transfers of, made in contravention of ss 28 and 29	97
Rules, power of High Court to make	104
Indian Christian Marriage Act (1872) Amendment Act, 1891	176
Indian Christian Marriage Act, 1872, amended	176-179
Indian Criminal Law Amendment Act 1891	187
Indian Penal Code amended	187
Indian Criminal Law Amendment Act 1894	235
Indian Penal Code, amended	236
Indian Criminal Law Amendment Act, 1895	299
Indian Penal Code amended	299 301
Indian Evidence Act (1872) Amendment Act 1887	3
Indian Evidence Act, 1872, amended	3
Indian Evidence Act (1872) Amendment Act, 1891	180
Indian Evidence Act 1872, amended	180-181
Indian Fisheries Act 1897	321
Arrest without warrant for offences under Act	323
Definitions	322
Fish,	
destruction of, by explosives in inland waters and on coasts	322
destruction of, by poisoning waters	322
protection of, in selected waters by rules of Local Government	323
Indian Marine Act, 1887	23
Challenge	43
Courts,	
clearing of	44
criminal, beyond British India, procedure of	47
decision of	44
dissolution of, on illness of prisoner	44
Indian Marine, application of Act 15 of 1869 to	41
Indian Marine composition of	42
Indian Marine, place of sitting of	43
Indian Marine, power to convene	41
Indian Marine, preservation of proceedings of, and grant of copies	46
ordinary, saving of authority of	48
re-trial of prisoner after dissolution of	44
submission of proceedings of, to confirming authority	45

	PAGES
Indian Marine Act 1887— <i>contd</i>	
Debt exemption from arrest for	49
Definitions	28-30
Enrolment procedure on	30
Evidence law of applicable to proceedings before Indian Marine Courts	46
Findings and Sentences	
confirmation of	45
confirming authority	45
exemption of	43
of imprisonment commencement of	47
powers of confirming authority	45
Indian Marine vessel provision in case of wreck loss destruction or capture of	46
Indian Penal Code amended	49
Jurisdiction and Powers,	
case of a person charged with an offence cognizable by a criminal court	49
case of a person charged with an offence cognizable by an Indian Marine court or commanding officer	40
conflict of	40
of commanding officers	39 47
of Governor General in Council in respect of sentences	41
over person ceasing to be subject to Act	40
previous conviction or acquittal	41
to pass sentences	39
Oaths	43
Offences,	
absence without leave	34
arson	35
breaching out of vessel	34
cognizable by criminal courts and Indian Marine courts	33
concealing traitorous mutinous or seditious practice design or words	33
contempt of court	36
corresponding etc., with the enemy	32
creating disturbance on account of complaints	35
cruelty or misconduct by officer	34
delaying or discouraging action or service or deserting post or sleeping on watch	31
desertion	33
disobedience or using threatening language to superior officer	33
drunkenness on board ship or on duty	34
embezzling public stores	35
false evidence	36
improper communication with the enemy	32
inciting to mutiny	33
inducing any person to desert	34
making false documents	35
malingering or misconduct in hospital	35
misconduct of commanding officer in action	30
misconduct of subordinate officers or men in action	31
mutinous assembly or uttering seditious words	33
mutiny accompanied by violence	32
mutiny not accompanied by violence	32
neglect of duty	32
not assisting in arresting offenders	35

Indian Marine Act 1887— <i>concl'd</i>	
Offences— <i>cont'd</i>	
not pursuing the enemy or not assisting a friend in view	31
punishable by ordinary law	36
striking or using violence to superior officer	33
suffering vessel to be lost or imperilled	34
to the prejudice of good order and discipline not otherwise specified	35
unlawful taking of goods on board	34
Offenders, arrest of	47
Property,	
of deceased person and deserters, disposal of	50
which cannot be attached	50
Punishments,	
minor	49
regulations as to the infliction of	37
scale of	37
schedule of	36
summary, of certain contempts	44
Rules,	
general power to make	30
power to make respecting procedure of Indian Marine courts	46
Trials,	
limitation of time for	33
of officers and crew by one court	43
place of	40
Witnesses, summoning of	44
Indian Marine Act (1837) Amendment Act, 1883	57
Indian Marine Act, 1887, amended	57
Indian Merchandise Marks Act 1889	61
Abetment, punishment of in India of acts done out of India	73
Definitions	63
Goods,	
determination of character of, by sampling	72
evidence of origin of, imported by sea	70
forfeiture of	67
marked implied warranty on sale of	71
Governor General in Council authority of, to issue instructions as to administration of Act	71
Indian Penal Code, amended	62-64
Marks and Descriptions unintentional contravention of the law relating to	66
Offence, information as to commission of	72
Piece-goods,	
definition of	71
stamping of length of, manufactured in British India	70
Prosecution,	
cost of defence or	70
limitation of	70
Sea Customs Act 1878, amended	63, 69
Trade Descriptions,	
application of	65
false, penalty for applying	66
false, penalty for selling goods to which, is applied	66
false, provisions supplemental to	64

	PAGES
Indian Merchandise Marks and Sea Customs Acts Amendment Act 1891	185
Indian Merchandise Marks Act, 1899, amended	186
Sea Customs Act, 1848, amended	186
Indian Penal Code Amendment Act, 1896	311
Indian Penal Code, amended	311 312
Indian Railways Act, 1890	107
Accidents,	
railway provision for compulsory medical examination of persons injured in	147
railway, report of	146
submission of return of	147
Accommodation works	121
additional power of owner, occupier or local authority to cause to be made	122
Arrest,	
for offences against certain sections	157
of persons likely to abscond or unknown	157
Assessors	129
Bridges, over and under	123
Communications, from Governor General in Council, mode of signifying	160
Compartments reservation of, for females	141
Compensation,	
for losses and notification of claim to refunds of overcharges	145
payment of, for damage caused by lawful exercise of powers under ss 7, 8 or 9	120
settlement of, for injuries to officers soldiers airmen or followers on duty	145
suits for injury to through booked traffic	145
Definitions	116-117
Documents evidence of	130
Exceptional provision	125
Fences screens, gates and bars	122
Ferries and roadways establishment of, for accommodation of traffic	136
Goods	
dangerous or offensive	140
requisition for written accounts of description of	139
Governor General in Council delegation of powers of	162
Indian Penal Code, amended	163
Inspectors	
appointment and duties of	117
delegation of powers to	127
facilities to be afforded to	118
powers of	118
Land, temporary entry upon, for repairing or preventing accident	120
Magistrate having jurisdiction under Act	153
Offences,	
altering or defacing pass or ticket	151
being or suffering person to travel on railway with infectious or contagious disorder	151
breach of duty imposed by s 60	150
cattle trespass	155
compelling passengers to enter carriages already full	150
defacing public notices	152
disobedience of omnibus drivers to directions of railway servants	155
drunkenness	150
drunkenness or nuisance on a railway	154

Indian Railways Act, 1890—*contd*Offences—*contd*

endangering safety of persons	150
endangering safety of persons travelling by railway, by wilful act or omission	156
endangering safety of persons travelling by railway, by rash or negligent act or omission	157
entering carriage in motion or otherwise improperly travelling on a railway	154
entering carriage or other place reserved for females	154
entering compartment reserved or already full or resisting entry into compartment not full	151
false returns	151
fraudulently travelling or attempting to travel without proper pass or ticket	152
giving false account of goods	151
maliciously hurting or attempting to hurt persons travelling by railway	156
maliciously wrecking or attempting to wreck a train	156
needlessly interfering with means of communication in a train	151
obstructing level-crossings	150
obstructing railway servant in his duty	153
omission to give notice of accident	150
opening or not properly shutting gates	153
smoking	151
special provision with respect to the commission by children of acts endangering the safety of persons travelling by railway	157
transferring any half of return ticket	153
travelling without pass or ticket, or with insufficient pass or ticket beyond authorised distance	152
trespass and refusal to desist from trespass	155
unlawfully bringing dangerous and offensive goods upon a railway	151

Passengers,

communication between, and railway servants in charge of trains	141
maximum number of, for each compartment	141

Penalties,

for contravention of ss 16, 18, 19, 20, 21 or 24	143
for default in compliance with requisition under s 13	143
for delay in submitting returns under s 52 or 85	143
for failure to comply with decision under s 43	143
for failure to comply with requisition under a 62 for maintenance of means of communication between passengers and railway servants	149
for failure to reserve compartments for females under s 64	149
for neglect of provisions of s 53 or 63 with respect to carrying capacity of rolling stock	149
for not having certain documents kept or exhibited at stations	143
for not making rules as required by s 47	143
for omitting to give the notices of accidents required by ss 83 and 84	149
recovery of	149
Pipes, wires and drains, alteration of	119
Presumption where notice is served by post	161
Proceedings, costs of, under Chapter V	129
Proof, burden of, in respect of loss of animals or goods	145

Indian Railways Act, 1890—*contd*

Railways,

application of the provisions of ss 17 18 and 19 to material alterations of	125
closed re-opening of	126
disposal of differences between regarding conduct of joint traffic	135
disposal of things unclaimed on	138
managers and agents of representation of in court	162
notice of intended opening of	124
opened power to close	196
power to exempt from Act	162
procedure in sanctioning the opening of	124
removal of trees dangerous to or obstructing the working of	123
sanction of the Government a condition precedent to the opening of	124
taxation of by local authorities	159

Railway Administrations

authority of to execute all necessary works	118
duty of to arrange for receiving and forwarding traffic without unreasonable delay and without partiality	130
exhibition by, to the public of authority for quoted rates	140
exoneration of, from responsibility in case of goods falsely described	145
further provision with respect to the liability of as a carrier of animals	143
further provision with respect to the liability of, as a carrier of luggage	144
further provision with respect to the liability of as a carrier of articles of special value	144
limitation of liability of, in respect of accidents at sea	146
may charge reasonable terminals	133
measure of the general responsibility of, as a carrier of animals and goods	143
power for, to impose conditions for working traffic	137
power for, to require indemnity on delivery of goods in certain cases	138
power to to refuse to carry persons suffering from infectious or contagious disorder	143
procedure for summary delivery to of property detained by railway servant	160
provision by, for facilities and equal treatment where ships or boats are used which are not part of a railway	133
requisitions on for details of gross charges	141
service of notices by	161
service of notices on	161
undue preference by, in case of unequal rates for like traffic for services	132

Railway Commission

appeals from orders of	128
bar of jurisdiction of ordinary courts in certain matters cognizable by	130
constitution of	127
constitution of, in session	128
dissolution of	130
execution of order of, and High Court	129
finality of orders of, subject to provisions of Chapter V of Act	130
operation of orders of	129
powers of	129
power of to fix terminals	133

Indian Railways Act, 1890— <i>concl'd</i>	
Railway Commission— <i>cont'd</i>	
reference of cases to	129
restrictions of jurisdiction of, to cases specially referred	127
submission to the Governor General in Council of special reports by	130
Railway companies, power of, to enter into working agreements	135
Railway property, restriction on execution against	159
Railway servants to be deemed public servants for purposes of Chapter IX of the Indian Penal Code	160
Rates, terminals etc, lien for	137
Returns	137
Rolling stock, agreement with Governor General in Council for construction or lease of	135
Rules	133
general	
power of the Governor General in Council to make for the purposes of Chapter V of the Act	129
power to make, regarding notices of and inquiries into accidents	147
power to make, with respect to the opening of railways	126
provisions with respect to	161
Sindh Pishin Railway Act, 1887, amended	163
Steam tramways, power to extend Act to	162
Tickets,	
exhibition and surrender of passes and	142
prohibition against travelling without pass or	142
provision for case in which, have been issued for trains not having room for additional passengers	142
return and season	143
supply of, on payment of fares	142
Time table and table of fares, exhibition of, at stations	142
Trial, place of	153
Wagons, maximum load for	137
Indian Railways Act (1890) Amendment Act 1896	315
Indian Railways Act, 1890, amended	315-316
Indian Railway Companies Act, 1895	308
Accounts	310
Borrowing power: construction of	310
Definitions	308
Interest payment of, out of capital	309
Prospectus notice in, and other documents	310
Share-capital additional, provisions of s 3 applicable to, for extensions	310
Indian Registration of Ships Act (1841) Amendment Act, 1891	182
Indian Registration of Ships Act, 1841, amended	182 185
Indian Reserve Forces Act, 1888	53
Act, effect of on persons already in the Reserve	55
Offences by persons belonging to Reserve Forces, punishment of	54
Reserve Forces,	
division of, into active and garrison reserves	54
liability of, to military law	54
locality of service of	54
Rules, power to make for regulation of Reserve Forces	54
Indian Short Titles Act 1897	360
Citation of certain Acts	360
Indian Tariff Act 1894	237
Dnty,	
application of certain provisions as to, and goods	240

Indian Tariff Act, 1894— <i>concl'd</i>	
Duty— <i>concl'd</i>	
import, additional on bounty fed articles	240
import, special on sugar in certain cases	241
increased or decreased, when contracts have been entered into	
amount of to be added or deducted	241
on imports and exports by land	239
on salt opium and spirit when protected by a certificate	239
specified in Schedule to be levied	238
Notifications, power to cancel	241
Indian Telegraph (Presidency Towns) Act 1888	56
Indian Telegraph Act 1885 amended	56
Indian Tolls Act, 1858	55
Tolls past levy of, validation of	56
Inland Bonded Warehouses Act, 1896	312
Bond, form of	313
Rules power to make	314
Warehouses,	
inland bonded and law applicable thereto	313
inland bonded conveyance of salt to under bond	313
Land Acquisition Act 1894	213
Agreements,	
between railway company and Secretary of State, how may be proved	232
exempted from stamp-duty and fees	231
previous consent of Local Government and execution of, necessary	231
publication of	231
ss 39 to 42 not to apply where Government bound by, to provide land for companies	232
with Secretary of State in Council	231
Appeals in proceedings before court	234
Awards, form of	227
Collector,	
after declaration to take order for acquisition	221
award of, when to be final	222
enquiry and award by	222
matters to be considered and neglected by	223
may be directed to pay interest on excess compensation	227
power of to require and enforce the making of statements as to names and interests	222
power of, to summon and enforce attendance of witnesses and production of documents	223
reference by, to court	224
special powers of in case of urgency	223
statement of to court	224
to adjourn enquiry	222
to cause notice to be given to persons interested	221
Compensation	
dispute as to apportionment of	227
matters to be considered in determining	226
matters to be neglected in determining	226
particulars of apportionment of, to be specified	227
payment of or deposit of same in court	223
rules as to amount of	226

	PAGES
Land Acquisition Act 1894— <i>concl'd</i>	
Costs	227
Damage, payment for	220
Definitions	217 219
House or building, acquisition of part of	233
Interest, payment of	229
Land,	
acquisition of, at cost of local authority or company	234
company may be authorised to enter and survey	230
completion of acquisition of, not compulsory, but compensation to be awarded when not completed	233
declaration that, is required for a public purpose	220
difference as to condition of	230
magistrate to enforce surrender of	233
penalty for obstructing acquisition of	232
power to enter and take possession of, and compensation on restoration	230
power to take possession of	223
to be marked out, measured and planned	221
waste or arable, temporary occupation of	229
Mooney,	
investment of deposited in respect of lands belonging to persons incompetent to alienate	228
investment of, deposited in other cases	229
Notice, service of	225 232
Notification, preliminary, regarding acquisition of land, publication of, and powers of officers thereupon	219
Objections hearing of	220
Previous enquiry	231
Proceedings	
Code of Civil Procedure not to apply to, before court	234
restriction on scope of	225
to be in open court	225
Roles, power to make	234
Suits, notice in case of, for anything done in pursuance of Act	234
Lansdowne Bridge Act, 1892	205
Roads and bridges, public, application of Act to	206
Tolls,	
levy of	205
validation of past levy of	205
Legal Practitioners Act, 1896	316
Legal Practitioners Act 1879, amended	316 318
Marriage Validation Act 1892	203
Definition	204
Marriages	
irregular, penalty for solemnizing	204
irregular, validation of	204
irregular, validation of records of	204
under Act V of 1865 application of Act to	204
Measures of Length Act, 1889	60
Certified Measure,	
inspection of, by the public	61
presumption in favour of accuracy of	60

	PAGES
Measures of Length Act 1889— <i>concl'd</i>	
Certified Measure,— <i>cont'd</i>	
to be kept by authorities required by existing enactments to keep measures of length	61
Standard foot and inch	60
Standard yard	60
measure for determining length of	60
Merchandise Marks <i>see</i> Indian Merchandise Marks Act, 1889	
Metal Tokens Act 1889	57
Definition	57
Metal,	
application of certain provisions of Act to importation of pieces of for use as money	59
penalty for unlawful making issue or possession of pieces of, to be used as money	58
prohibition of making by private persons of pieces of to be used as money	58
which is not coin, prohibition of receipt by local authorities and railways as money	59
Offences, cognizance of	58
Negotiable Instruments Act Amendment Act, 1897	331
Negotiable Instruments Act, 1881, amended	331-332
Partition Act, 1893	209
Orders for sale to be deemed decrees	211
Partition suits,	
by transferee of share in dwelling house	210
power to court to order sale instead of division in	209
Procedure when sharer undertakes to buy	209
Representation of parties under disability	210
Rules procedure to be followed in case of	210
Saving of power to order partly partition and partly sale	211
Shareholders, reserved bidding and bidding by	210
Suits, pending, application of Act to	211
Petroleum (Customs-duty) Act, 1888	61
Police Act, 1888	61
Police forces, constitution of for special purposes	62
Police officers, employment of, beyond the presidency, province or place to which they belong	63
Police Act (1861) Amendment Act, 1895	302
Police Act, 1861 amended	302-308
Presidency Small Cause Courts Act 1895	295
Presidency Small Cause Courts Act, 1882, amended	295-299
Press and Registration of Books Act (1867) Amendment Act 1890	165
Press and Registration of Books Act 1867, amended	165-168
Prevention of Cruelty to Animals Act 1890	168
Animals	
diseased, penalty for permitting to go at large or to die in public places	170
penalty for cruelty to, in public places and for sale in such places of animals killed with unnecessary cruelty	169
penalty for killing with unnecessary cruelty	169
suffering destruction of	171
unfit for labour, penalty for employing	170
Definitions	169

Prevention of Cruelty to Animals Act, 1890—*concl'd.*

Goats,

penalty for being in possession of the skin of, killed with unnecessary cruelty	169
---	-----

presumption as to possession of the skin of	170
---	-----

Phuka, penalty for practising	169
---	-----

Prosecutions, limitation for	171
--	-----

Religious rites and usages, saving with respect to	171
--	-----

Search and seizure, special powers of, in respect of certain offences	171
---	-----

Search-warrants	171
---------------------------	-----

Prisons Act, 1894	270
-----------------------------	-----

Definitions	274-275
-----------------------	---------

Gate-keeper, duties of	279
----------------------------------	-----

Hospital	282
--------------------	-----

Inspector-General	276
-----------------------------	-----

Jailer	278
------------------	-----

Deputy and Assistant, powers of	278
---	-----

responsibility of	278
-----------------------------	-----

to be present at night	279
----------------------------------	-----

to give notice of death of prisoner	278
---	-----

Medical Officer,	
----------------------------	--

duties of	277
---------------------	-----

record of directions of	280
-----------------------------------	-----

to report in certain cases	277
--------------------------------------	-----

Offences,	
---------------------	--

by prison subordinates	286
----------------------------------	-----

heinous, procedure on committal of	287
--	-----

power to arrest for, under s. 42	288
--	-----

prison	284
------------------	-----

prison, punishment of	284
---------------------------------	-----

Officers,	
---------------------	--

convict	279
-------------------	-----

not to be interested in prison contracts	276
--	-----

not to have business dealings with prisoners	276
--	-----

of prisons	276
----------------------	-----

of prisons, control and duties of	276
---	-----

subordinate, not to be absent without leave	279
---	-----

Penalties, publication of	284
-------------------------------------	-----

Prisoners,	
----------------------	--

accommodation for	275
-----------------------------	-----

association and segregation of	280
--	-----

civil, employment of	281
--------------------------------	-----

confinement of, in irons	283
------------------------------------	-----

confinement of, under sentence of transportation in irons	283
---	-----

criminal, civil and unconvicted, supply of clothing and bedding to	283
--	-----

criminal, civil and unconvicted, visits to	283
--	-----

criminal, employment of	281
-----------------------------------	-----

criminal, sentenced to simple imprisonment, employment of	283
---	-----

effects of	283
----------------------	-----

extramural custody, control and employment of	281
---	-----

maintenance of, from private sources	281
--	-----

medical officer to certify fitness of, for punishment	281
---	-----

not to be ironed by jailor except under necessity	283
---	-----

removal and discharge of	283
------------------------------------	-----

report on death of	284
------------------------------	-----

	PAGES
Prisons Act 1894— <i>conold</i>	
Prisoners — <i>conold</i>	
restriction on transfer of food and clothing between	281
separation of	280
sick	282
solitary confinement of	280
temporary accommodation for	276
to be examined on admission	279
under sentence of death	280
Prisons penalty for introduction or removal of prohibited articles into or from and communication with prisoners	283
Punishments	
award of under ss 46 and 47	287
entries in book of	287
plurality of under s 46	286
to be in accordance with ss 46 47 and 48	287
Rules	
exhibition of copies of	291
power of Local Government to make	290
power to make	289
Superintendent,	
exercise of powers of and medical officer	291
records to be kept by	277
Visitors search of	283
Whipping	288
Provincial Small Cause Courts Act 1887	7
Code of Civil Procedure application of	13
Courts of Small Causes	
abolished continuance of proceedings of	18
abolition of	17
appeal from certain orders of	16
application of Act to courts invested with jurisdiction of	17
application of Act and Code of Civil Procedure to courts invested with jurisdiction of, as to two courts	17
cognizance of suits by	13
establishment of	10
exclusive jurisdiction of	13
finality of decrees and orders of	16
modification of Code of Civil Procedure as applied to courts invested with jurisdiction of	17
revision of decrees and orders of	16
seal of	16
subordination of	16
Definitions	10
Judges	
additional	11
appointment of times of sitting in certain circumstances by	11
decision in case heard by a bench	12
of Small Cause Court saving of power to appoint to other office	17
suspension and removal of	11
two power to require to sit as bench	11
Officers	
chief ministerial adjournment of cases by	15
ministerial duties of	19
other ministerial	12

	PAGES
Provincial Small Cause Courts Act, 1887— <i>concl'd</i>	
Orders publication of	18
Plaints, return of, in suits involving title	15
Registrar,	
admission return and rejection of plaints by	14
execution of decrees by	15
passing of decrees by, on confession	14
trial of suits by	14
Public Servants (Inquiries) Act (1850) Amendment Act 1897	319
Public Servants (Inquiries) Act 1850, amended	319
Railways <i>see</i> Indian Railways Act, 1890	
Reformatory Schools Act 1897	332
Board of Management,	
powers of	340
power to appoint Trustees or other Managers of a school to be	340
power of, to make rules	340
Committee of Visitors, duties of	339
Definitions	335
License,	
cancellation of	339
cancellation of, in case of ill treatment	339
determination of	339
Magistrate,	
power of, to direct boys under fifteen sentenced to imprisonment	
to be sent to Reformatory Schools	337
preliminary inquiry by, and finding as to age of youthful offender	337
procedure where is not empowered to pass an order under s 3	336
Orders not subject to appeal or revision	338
Reformatory Schools,	
inspection of	336
persons found to be over eighteen years not to be detained in	338
power of courts to direct youthful offenders to be sent to	336
power to establish and discontinue	335
power to Governor General in Council to direct use of in one pro-	
vince, for reception of youthful offenders from another	338
requisites of	335
to which youthful offenders shall be sent, Government to determine	337
Superintendent,	
appointment of, and Committee of Visitors or Board of Manage-	
ment	338
may license youthful offenders to employers of labour	339
to be deemed guardian of youthful offender	339
Youthful Offenders,	
discharge or removal by order of Government	338
escaped arrest of	342
penalty for abetting escape of	341
penalty for introduction or removal or supply of prohibited articles	
and communication with	341
power to apprentice	339
power to deal in other ways with, including girls	342
procedure when under detention in a Reformatory School is again	
convicted and sentenced	—342
Reserve Forces <i>see</i> Indian Reserve Forces Act, 1888	
Revenue Recovery Act, 1890	76
Definitions	76

	PAGES
Revenue Recovery Act 1890— <i>concl'd</i>	
Local laws relating to revenue, saving of	78
Property liable to sale under Act	77
Public demands,	
recovery in British India of, arising beyond British India	78
recovery of by enforcement of process in other districts than those in which they become payable	77
Recovery by collectors of sums recoverable as arrears of revenue by other public officers or by local authorities	77
Remedy available to person denying liability to pay amount recovered under s 3	77
Schools <i>see</i> Reformatory Schools Act, 1897	
Sea Customs Act (1878) Amendment Act 1887	1
Sea Customs Act 1878, amended	1-3
Sea Customs Act (1878) Amendment Act 1899	75
Sea Customs Act, 1878 amended	75-76
Succession Certificate Act, 1880	73
Courts-fees Act, 1870 amended	74-75
Suits <i>see</i> Partition Suits Act 1893	
Suits Valuation Act, 1897	4
Court-fees, value of, and jurisdictional value to be the same in certain suits	5
Madras Civil Courts Act, 1873, repeal of s 14	5
Proceedings pending at commencement of Part I or Part II of Act.	6
Relief, valuation of, in certain suits relating to land not to exceed the value of the land	4
Rules,	
determining value of land for jurisdictional purposes, power for Local Government to make	4
making and enforcement of	5
Suits,	
determination of value of by High Court	5
on appeal not properly valued for jurisdictional purposes, procedure where objection is taken on appeal or revision	5
Tariff <i>see</i> Indian Tariff Act 1894	
Tolls <i>see</i> Indian Tolls Act 1888	
Tributary Mahals of Orissa Act, 1893	211
Indemnity in respect of acts done before the commencement of this Act	212
Sentences execution in British India of, passed in tributary Mahals	212
Wards <i>see</i> Guardians and Wards Act, 1890	
Warehouses <i>see</i> Inland Bonded Warehouses Act, 1896	

